

# ZONING ORDINANCE



## Ordinance #2

CITY OF LEBANON, NEW HAMPSHIRE

<i>ADOPTED:</i>	<i>January 16, 2013</i>
<i>LAST AMENDED:</i>	<i>March 13, 2018</i>

## TABLE OF CONTENTS

<b><u>SECTION</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>ARTICLE I</b>	<b>INTRODUCTION</b>	<b>01</b>
100	Title	01
101	Authority	01
102	Purpose	01
103	Applicability	01
104	Origins	01
<b>ARTICLE II</b>	<b>GENERAL PROVISIONS</b>	<b>02</b>
200	Gardening & Forestry	02
201	Yard Requirements	02
202	Reduction of Lot Area or Dimensions	03
203	Height Requirements	03
204	Lots in Two Zoning District	09
205	One Principal Structure per Residential Lot	09
206	Site Distance at Street Intersections	09
207	Yard Sales	09
208	Off-Street Loading	09
209	Manufactured Homes	09
210	Open Building Excavations	10
211	Temporary Uses and Structures	10
212	Anti-Nuisance Standards	12
213	Impact Fees	13
214	Governmental Uses	18
215	Location of Accessory Use	18
<b>ARTICLE III</b>	<b>USE DISTRICTS</b>	<b>19</b>
300	Establishment of Use Districts	19
301	Zoning Map	19
302	Uses	20
303	IND-L District	23
303A	IND-RA District	25
304	IND-H District	27
305	GC District	29
306	CBD District	31
307	(RESERVED)	33
308	R-1 District	33
309	R-2 District	35
310	R-3 District	37
311	RO District	39
311A	RO-1 District	41
311B	PB District	43
312	RL-1 District	45
313	RL-2 District	47
314	RL-3 District	49
315	MC District	50

<b><u>SECTION</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>ARTICLE IV</b>	<b>OVERLAY DISTRICTS</b>	<b>52</b>
400	Establishment of Overlay Districts	52
401	Wetlands Conservation District	52
402	Flood Plain District	58
403	Steep Slope District	58
404	Ridgeline District (RESERVED)	59
405	Scenic Corridors District (RESERVED)	59
406	Aquifer Protection District (RESERVED)	59
407	Airport Protection District	59
408	Historic District	61
409	Landfill Reclamation District	64
410	Riverbank Protection District	65
<b>ARTICLE V</b>	<b>SUBDIVISIONS AND PLANNED DEVELOPMENTS</b>	<b>73</b>
500	General	73
501	Planned Unit Development (PUD)	73
502	(RESERVED)	86
503	Manufactured Home Parks	87
504	Manufactured Home Subdivisions	88
505	Recreational Camping Parks	88
506	Medical Center Campuses	90
507	Bonuses for Certain Planned Development	91
508	Planned Business Park	91
<b>ARTICLE VI</b>	<b>ADDITIONAL STANDARDS FOR SPECIFIC USES</b>	<b>94</b>
600	Home Business	94
600A	Home Based Contractor's Yards	95
601	Conversions of Older Residences and Other Buildings	97
602	Non-Commercial Swimming Pools	98
603	Senior Housing Complexes	99
604	Group Day Care Facilities	99
605	Junkyards	100
606	Excavation of Natural Earth Material	101
607	Parking	101
608	Signs	106
609	Sexually Oriented Businesses	113
610	Accessory Dwelling Unit (ADU)	119
611	The Keeping of Hens	120
611A	Beekeeping	121
612	Renewable Energy Systems	122
613	Alternative Treatment Centers	124
<b>ARTICLE VII</b>	<b>NON-CONFORMITIES</b>	<b>126</b>
700	General	126
701	Non-Conforming Lots	126
702	Non-Conforming Uses	126
703	Non-Conforming Buildings & Structures	127

704	Pre-Existing Uses That Are Special Exceptions or Conditional Uses	128
705	Prior Unlawful Uses	128
<b><u>SECTION</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>ARTICLE VIII</b>	<b>BOARD OF ADJUSTMENT</b>	<b>129</b>
800	Establishment of Board of Adjustment	129
801	Powers & Duties	129
802	Board Procedures	131
<b>ARTICLE IX</b>	<b>ADMINISTRATION &amp; ENFORCEMENT</b>	<b>135</b>
900	Zoning Administrator	135
901	Zoning Permits	135
902	Occupancy	136
903	Enforcement	137
<b>ARTICLE X</b>	<b>MISCELLANEOUS PROVISIONS</b>	<b>138</b>
1000	Zoning Ordinance Amendments	138
1001	Conflicts	140
1002	Severability	141
1003	Effective Date	141
<b>APPENDIX A</b>	<b>DEFINITIONS</b>	<b>142</b>
<b>APPENDIX B</b>	<b>KEY TO H.I.S. SOIL TYPES</b>	<b>157</b>

**ARTICLE I**  
**INTRODUCTION**

**SECTION 100**      **TITLE.**

This Ordinance may be known and may be cited as "Zoning Ordinance of the City of Lebanon, New Hampshire."

**SECTION 101**      **AUTHORITY.**

This Ordinance is enacted pursuant to the Planning and Zoning Enabling Legislation of the State of New Hampshire Revised Statutes Annotated, Title LXIV, Chapters 672-677, as amended.

**SECTION 102**      **PURPOSE.**

This Ordinance is enacted for the purpose of promoting the health, safety and general welfare of the community; for the purposes listed in RSA 674:16; for the purposes stated in the City of Lebanon Master Plan; for the specific purposes stated for each zoning district or section herein; and for any and all purposes for which land use regulations may be validly enacted under New Hampshire law. The Ordinance is designed to:

- Lessen congestion in the streets and promote safe and efficient movement of people, vehicles, and goods;
- Secure safety from fire, panic and other dangers;
- Promote health and the general welfare;
- Promote adequate natural light and clean air;
- Prevent the overcrowding of land by people and structures by avoiding undue concentration of population and preserving open space;
- Promote adequate facilities and infrastructure for transportation, solid waste, water, sewerage, energy schools, recreation, parks, and child day care;
- Protect and assure proper stewardship of natural resources;
- Provide a range of housing choices and affordability;
- Provide a range of economic opportunities and services;
- Encourage the preservation of agricultural lands and buildings; and
- Encourage energy-efficient land uses and installation of renewable energy systems.

**SECTION 103**      **APPLICABILITY.**

No land in the City of Lebanon shall hereafter be used for building, development or otherwise and no structure shall be erected, enlarged, materially altered, moved or used, except in conformance with this Ordinance.

**SECTION 104**      **ORIGINS.**

This Ordinance repeals and replaces the Zoning Ordinance currently in effect in the City of Lebanon, which was adopted on December 5, 1990, and amended several times.

## ARTICLE II

### GENERAL PROVISIONS

#### SECTION 200      GARDENING AND FORESTRY.

The raising of crops, keeping of gardens and forestry are allowed everywhere in Lebanon and are not regulated by this Ordinance. except as provided in Article IV, Section 401 and Section 410.

#### SECTION 201      YARD REQUIREMENTS.

Except as otherwise provided herein, no building or structure other than accessory structures and buildings of 130 sq. ft. or less per Section 201.8 below shall occupy any part of any yard required by Article III, except that the ordinary projections of sills, cornices, pilasters, chimneys and eaves may extend not more than two (2) feet into any required yard.

##### 201.1      Reduction for an Average Front Yard.

The required front yard may be reduced to the average front yard of the existing buildings on the same side of the street in the same block, provided that there are at least two (2) such buildings and provided that all such buildings are within 300 feet of the premises (as measured along the street line). This reduction shall not be allowed for lots fronting on a state highway or major thoroughfare.

##### 201.2      Front Yard Reduction by Special Exception.

The required front yard of 40 feet for lots on a state highway or major thoroughfare may be reduced by special exception granted by the Board of Adjustment pursuant to Section 801.3.

##### 201.3      Lots on More Than One Street.

A lot adjoining two streets shall have a minimum front yard on each street and minimum side yards on the remaining sides. A lot adjoining three streets shall have minimum front yards on at least two intersecting streets, a minimum rear yard on the other street and a side yard on the remaining side.

##### 201.4      Fences, Hedges and Walls.

Fences, hedges or walls in required front yards shall not exceed 3 ½ feet in height unless the setback is 15 feet from the right-of-way. The Board of Adjustment, as a special exception, may allow fences, hedges and walls of a greater height. This section shall not apply to fences and walls erected for agricultural (e.g., the confinement of animals), safety or security purposes in the industrial, commercial or rural lands districts.

Fences, hedges and walls not in conformance with this section shall be discontinued.

\*Note: Section 603.2 of the July 19, 1978 Zoning Ordinance provided that non-complying fences, hedges and walls be discontinued by July 18, 1983.

##### 201.5      Flagpoles.

Flagpoles may occupy required yards.

#### 201.6     Antennae, Satellite Dishes, Etc..

Radio, TV and communications antennae, satellite dishes and the like shall not occupy the areas of front yards or required side and rear yards; provided, however, that this restriction may be relaxed by special exception, if the Board of Adjustment finds, in addition to the standards set forth in Section 801.3, that such a relaxation is required by applicable federal regulations and RSA 674:16, IV, in order to reasonably accommodate such facilities.

#### 201.7     Driveways and Parking Areas.

Driveways may occupy required yard areas. Parking areas in the residential districts and the R-O District shall be setback no less than the lesser of the minimum yard requirement or the building line, but in no case less than five (5) feet.

#### 201.8     Accessory Structures and Buildings of 130 Square Feet or Less.

One-story detached accessory structures and buildings of 130 sq. ft. or less and not exceeding twelve (12) feet in height may be located within the minimum required side and rear yards, in all zoning districts, provided they are placed a minimum of 5 feet from the side and rear property lines. A zoning permit shall be required for an accessory building.

#### 201.9     Accessory Renewable Energy Systems.

Accessory renewable energy systems shall not occupy the areas of required front, side and rear yards (a.k.a. front, side and rear setbacks). This restriction may be relaxed by special exception, if the Board of Adjustment finds, in addition to the standards set forth in Section 801.3, that such relaxation is required for the reasonable use of the proposed system.

### SECTION 202             REDUCTION OF LOT AREA OR DIMENSIONS.

The configuration of a lot shall not be altered so that the area, yards, lot width, frontage, coverage or other requirements of this Ordinance are less than the minimums required herein. This requirement shall not apply when part of a lot is taken for a public purpose.

### SECTION 203             HEIGHT REQUIREMENTS.

#### 203.1     Exceptions to Height Requirements.

Except as provided in Section 407 for structures near the airport or in the airport approach zone, the following structures may exceed the maximum height limitations of Article III by not more than 20 percent.

- A.     Flagpoles.
- B.     Chimneys, spires, silos, towers, lightning rods, heating, ventilation and air-conditioning equipment, elevator shafts, accessory solar energy facilities or similar structures/equipment. The Board of Adjustment may allow a greater height for silos in the RL Districts by special exception granted pursuant to Section 801.3.
- C.     Radio or TV antennae or satellite dish for private, non-commercial reception.
- D.     Accessory wind energy facilities, except as provided in Section 203.3.

### 203.2 Commercial Television or Radio Broadcast Station Antennas and Towers.

Commercial television or radio broadcast station antennas or towers allowed by special exception in RL Districts shall be exempt from the maximum height limits of Sections 312, 313 and 314, except as provided in Section 407; provided, however, that in addition to the findings required by Section 801.3, the Board of Adjustment shall also find:

- A. That the proposed height of the antenna and associated structures such as towers is the minimum height permitted by federal regulations for the frequency and type of broadcast signal to be used by the applicant, in light of best available technology, and that no additional height is being sought solely to increase the range of the signal; and
- B. That there are no feasible alternative sites within the RL Districts of the City where the facility could be located with significantly less visual impact on the neighborhood and City as a whole, due to reduced height needs, reduced visibility, or other site advantages.

To show that these standards are met, the applicant shall furnish the Board with a written impact analysis prepared by a professional radio frequency engineer familiar with both the technology and the regulatory framework for the type of station proposed. The analysis shall not be conclusory, but shall detail the applicant's specific objectives, and shall evaluate and compare specific alternative technologies, and the suitability and visual impacts of specific alternative sites within the City, using viewshed maps and photo simulations. The Board of Adjustment may, at the applicant's expense, hire a person, with such qualifications as the Board may determine, to review the analysis. The Board may require additional information as needed to decide the case.

### 203.3 Accessory Wind Energy Facilities.

Accessory wind energy facilities may exceed the above exception to the maximum height limits in RL Districts (Sections 312, 313 and 314) by special exception, except as provided in Section 407 (the more restrictive Section applies). In addition to the findings required by Section 801.3, the Board of Adjustment shall also find that the proposed tower height (ground to top of the tower as illustrated) shall be restricted to 35 feet above the average height of the tree canopy within 300 feet of the base of the tower. The maximum wind energy facility tower height shall be 120 feet. (Section 612.2 specifies required setbacks for accessory wind energy facilities.)

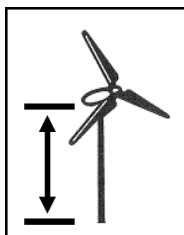


Illustration of tower height.

### 203.4 Telecommunication Facilities.

- A. Location of Telecommunication Facilities:
  - 1. Collocation or Modification. Any telecommunications facility whose installation meets the definition of "collocation" in RSA 12-K:2, X or which constitutes a "modification" as defined in RSA 12-K:2, XVIII, with respect



to any facilities or structures in existence as of September 22, 2013 (but excluding “substantial modification” of such existing facilities or structures, as defined in RSA 12-K:2, XXV) shall be deemed to be a permitted use in all zoning districts. As set forth in RSA 12-K:10, I, applications for such collocation or modification shall be reviewed solely for conformance with applicable building code and building permit requirements, within the time frame set forth in RSA 12-K:10, II and III, and shall not be subject to zoning regulations, planning board review or any public hearing requirement.

2. Installation On Structures Later Erected For Other Purposes. Any telecommunications facility installed upon a building or structure erected *subsequent to* September 22, 2013, but which was, at the time of erection, neither intended nor designed for the mounting of telecommunications facilities, shall also be a permitted use in all districts, with the approval of a Conditional Use Permit from the Planning Board, so long as the installation of the telecommunications facilities does not increase the height or footprint, or alter the overall profile, of the said building or structure.
3. Facilities Other Than Collocation or Modification. Telecommunication facilities requiring a new dedicated tower or other structure, or which otherwise do not fit within paragraphs A.1 or A.2 above, shall be:
  - a. Permitted in the Industrial, General Commercial, and Medical Center zoning districts by Conditional Use Permit;
  - b. Allowed by Special Exception and Conditional Use Permit in the RL zoning districts and,
  - c. Prohibited in all other zoning districts.

B. Other Use And Siting Factors.

1. Primary or Accessory Use. If sited in compliance with the provisions of Subsection A above, telecommunications facilities may be considered either principal or accessory uses. Neither the existence nor absence of a permitted use already on a lot or site shall be deemed to preclude the installation of a telecommunications facility on that same lot or site, as long as all other provisions of the Ordinance are met.
2. Dimensional Requirements. All district regulations relating to minimum yard setbacks and building coverage, as set forth in the tables in Article III, shall apply to telecommunications facilities, unless the zoning board of adjustment grants special exception relief pursuant to Section 201.6.
3. Nonconforming Uses. Telecommunications facilities which are installed in compliance with the provisions of this section shall not be deemed to create or constitute an unlawful expansion of any previously existing nonconforming use or structure on the lot.
4. Subsequent Changes To Facilities.
  - a. In general, for any telecommunications facilities which are installed pursuant to a Special Exception or Conditional Use Permit, or both, either before or after the effective date of this

Section, no alteration which increases the height or footprint or substantially alters the profile of such facilities shall be permitted in the absence of a new or modified Special Exception and/or Conditional Use Permit, as applicable.

- b. The rule in Subsection B.4.a above shall not apply if the proposed alteration constitutes “collocation” or “modification” with respect to structures or facilities which existed prior to September 22, 2013, as set forth in Section A.1 above.
- c. Lawfully existing towers, antennas and other telecommunications equipment may be replaced in kind, without the need to obtain a new or modified Conditional Use Permit or Special Exception.

C. Construction Performance Requirements. Except where specifically exempted under RSA 12-K:10, all telecommunications facilities shall meet the following standards:

- 1. Federal Requirements. All telecommunications facilities must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such telecommunications facilities.
- 2. Height. The height of a dedicated tower or structure shall not extend more than 20 feet above the average tree canopy. The height of an antenna mounted on an existing building or structure shall not exceed the height limitations of the zoning district and Section 203, unless a variance is granted by the Zoning Board to allow a greater height.

“Average Tree Canopy,” for purposes of this Section, means the average height found by inventorying the height above ground level of all trees over 20 feet in height for a radius of 200 feet. All efforts should be made to keep tower height at a minimum, and in no case shall a tower or antenna exceed 200 feet regardless of the average tree canopy.

- 3. Setbacks and Separation. In addition to compliance with the minimum zoning district setback requirements (Subsection B.2 above), all dedicated tower and structures shall be set back a distance equal to 125% of the height of the tower from all property lines (i.e. fall zone).
- 4. Security Fencing. Towers and associated equipment shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.
- 5. Landscaping. A buffer shall be provided that effectively screens the view of the compound from adjacent property. The standard buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the compound.
- 6. Visual Impacts. In locations where the visual impact of the compound would be minimal or non-existent, the landscaping requirement may be reduced or waived entirely by the Planning Board.
- 7. Existing Trees. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers on large wooded lots, natural growth around the property

may be deemed a sufficient buffer.

8. Camouflaging:

- a. At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower telecommunications facilities with the natural setting and built environment.
- b. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment visually unobtrusive.

9. Balloon Test. The applicant shall provide notice of a date on which a balloon (or balloons) will be floated at the proposed dedicated tower site at the discretion of the Planning Board, and provide pictures from all locations around town and within 20 miles from which the balloon(s) is visible. The Planning Board, at its discretion, may also require balloon test for antennas mounted on existing buildings and structures if not hidden or camouflaged.

D. Conditional Use Permits and Procedure:

1. Unless specifically exempted under Subsection A.1 of this Section, Telecommunications Facilities are permitted only after obtaining a Conditional Use Permit from the Planning Board and, where required, a Special Exception from the Zoning Board. All such uses must comply with other applicable ordinances and regulations of the City of Lebanon, State of New Hampshire, and Federal Government.
2. The Planning Board shall act upon the application in accordance with the procedural requirements of its Site Plan Review Regulations, provided that regional notification requirements contained in RSA 12-K:7 must also be followed.
3. Basic plan submission requirements shall be the same as stated in the Planning Board's Site Plan Review Regulations to any and all extent such regulations are applicable.
4. Other Information Required. In order to assess compliance with these regulations, the Planning Board shall normally require the applicant to submit all of the following prior to any approval by the Board; provided, however, that the Board may waive any of these requirements if the Board finds that the spirit of the Ordinance can be fulfilled without such submission.
  - a. Propagation map showing proposed radio frequency coverage.
  - b. Photographic documentation of the balloon test(s).
  - c. Studies and analysis of alternative sites or layouts that have been considered for providing coverage, including potential sites outside the City.

- d. A proposed agreement, or condition of approval, which will allow for the maximum allowance of collocation upon any new structure. Such statement shall, at a minimum, require the applicant to permit feasible collocation for reasonable fees and costs to other wireless telecommunication providers. Compliance with this requirement shall not, in and of itself, constitute a justification for excessive height, or for the failure to adequately analyze alternatives.
  - e. Copies of any federal license or permit from the FCC proving that the applicant is eligible to institute its system pursuant to the Federal Telecommunications Act of 1996, or other applicable statute.
  - f. Detailed maps showing all of the carrier's current externally visible tower and monopole locations in the state within a 20-mile radius, both active and inactive; and Site descriptions for each of the above locations showing the antenna height and diameter, and all externally visible structures. [Note: The purpose of this information is not to enable the Board to evaluate an applicant's business decisions, contrary to RSA 12-K:11, I(a), but rather to assist the Board to evaluate the relative engineering effectiveness of coverage alternatives, in conjunction with Paragraph D.4.c above.]
- E. Removal of abandoned telecommunication antennas and towers: Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower or antenna provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the City. A declaration of abandonment shall only be issued following a public hearing, noticed per the Planning Board's Site Plan Review regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days, the City may execute any security and may cause the tower to be removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

#### 203.5 Bonding and Security for Towers and Similar Structures.

Whenever either the Zoning Board of Adjustment or Planning Board approves an application to construct a tower or similar structure which, if abandoned and unmaintained, could present a hazard to health or safety from a potential fall or collapse, including but not limited to broadcast antennas or towers under Section 203.2, telecommunications towers under Section 203.4, or wind energy facilities under Section 203.3, the respective Board shall require the applicant to provide a bond or other security to the City in an amount sufficient to cover the costs of removal and disposal of such structure. The Board shall set the form and amount of the security. Any engineer, attorney, or other consultant engaged by the Board to determine the adequacy of the form and amount of security shall be at the applicant's expense. The Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed structure prior to construction.

#### SECTION 204            LOTS IN TWO ZONING DISTRICTS.

Where a district boundary line divides a lot of record at the time such district boundary line is established, the regulations for either district of such lot may extend up to thirty feet (one hundred feet in rural lands districts) into the other district, provided the lot has frontage on a street in the district which is being extended, and provided that the lot has not been altered by subdivision, merger, or lot line adjustment subsequent to the establishment of the district boundary. Determinations under this section shall be made by the Zoning Administrator, subject to appeal under Section 801.1.

#### SECTION 205            ONE PRINCIPAL STRUCTURE PER RESIDENTIAL LOT.

There shall be only one principal structure on a lot in the **residential districts**, R-O district, and R-O-1 district, except when:

- 205.1    Approved pursuant to the PUD provisions of this Ordinance; or
- 205.2    When the project involves solely the permitted remodeling or reconstruction of existing buildings, or when constructing new buildings for multi-family use, as otherwise permitted by this Ordinance; or
- 205.3    When the project involves a **group residence**, provided that site plan approval is obtained from the Planning Board.

#### SECTION 206            SIGHT DISTANCE AT STREET INTERSECTIONS.

There shall be no obstruction to vision between the heights of three (3) feet and ten (10) feet above the street surface within the triangular area formed by the intersection of two street lines and a third line joining them at points 25 feet away from their intersection. The Board of Adjustment may grant a special exception to this requirement, pursuant to Section 801.3, in the commercial and industrial districts only.

#### SECTION 207            YARD SALES.

A yard sale from any one location shall not be considered a use regulated under this Ordinance, providing that it does not occur more than twice within any calendar year for a period of not more than two consecutive days each and does not contain items purchased expressly for such sale. Any such type of sale exceeding these limits shall conform to the provisions of this Ordinance and shall require a zoning permit.

#### SECTION 208            OFF-STREET LOADING.

Off-street loading facilities shall be provided for all institutional, commercial and industrial uses. These facilities shall be located so that delivery vehicles are parked completely outside of the street right-of-way, and shall comply with the requirements of the Site Plan Review Regulations as applicable.

#### SECTION 209            MANUFACTURED HOMES.

Manufactured homes are permitted only in manufactured home parks or in manufactured home subdivisions or manufactured home Planned Unit Residential Developments (PURDs). See Sections 503 and 504.

## SECTION 210

## OPEN BUILDING EXCAVATIONS.

Within six months after work on an excavation for a building has begun, the excavation shall be covered (such as with building construction) or filled to normal grade. For safety purposes, excavations with slopes exceeding one horizontal to two vertical shall be protected by a fence at least four feet in height.

## SECTION 211

## TEMPORARY USES AND STRUCTURES.

### 211.1 General.

Temporary uses such as tent sales, temporary greenhouses, trailer storage and box trailer sales (whether such trailers are registered or unregistered), which are accessory to the principal use of a lot, may be permitted for not more than 60 days per year. Such uses shall take place only in use districts where they are allowed and shall comply with all yard and parking requirements of this Ordinance. All such uses shall require a zoning permit except for box trailers.

If such temporary uses occur in subsequent years, the City may require site plan review. If such uses are in accordance with an approved site plan they may exist for 120 days per year, except for box trailers and container units, which are governed by Subsection 211.2.

### 211.2 Box Trailers.

In all districts except the ***residential districts***, box trailers, whether registered or unregistered, are permitted for more than 60 days, provided:

#### A. Trailer Criteria.

1. The use of trailers shall be accessory to the principal use of the lot.
2. Trailers shall set on inflated tires (except sea boxes and the like).
3. The exterior of trailers shall be well maintained and free of rust.
4. Trailers shall not be used for advertising purposes.
5. Trailers shall not be lighted.
6. Trailers shall not be used to store hazardous and/or inflammable liquids, materials, products or wastes, including but not limited to petroleum.

#### B. Location of Trailers.

Box trailers shall not occupy required yard spaces or parts of lots which provide required parking or which are necessary for traffic flow, safety or landscaping requirements.

#### C. Density.

1. No more than 10 percent of the lot area may be occupied by trailers.
2. No more than six (6) trailers shall be permitted on a lot or business premises.

D. Converted Motor Vehicles.

The conversion of buses, motor homes, recreational vehicles and other motor vehicles for storage use or other temporary use is prohibited.

E. Zoning Permits.

1. The siting of box trailers permitted pursuant to this subsection shall require a zoning permit. The purpose of the permit is to establish approved locations for trailers of a certain size. Replacement trailers of the same or smaller size may occupy the same locations without obtaining a permit for each trailer provided that each replacement trailer shall comply with all other provisions of this Ordinance.
2. Permits shall be renewed annually after review for compliance with this subsection.
3. A permit may be revoked or not renewed for locations having trailers or containers that do not comply with the requirements of this subsection.
4. The City may require a reasonable fee for such zoning permits and the annual renewal thereof.

F. Compliance.

All box trailers shall comply with these requirements or be removed from the premises by October 31, 1992. Box trailers located in the **residential districts** prior to September 28, 1990, are vested against the prohibition in those districts, but such trailers shall comply with all other requirements of this subsection.

211.3 Incidental to Construction.

Temporary permits may be issued by the Zoning Administrator for a period not exceeding one year for non-conforming uses and/or non-conforming structures incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed, upon application, for an additional period of one year as long as construction is active.

211.4 Temporary Structures for Permitted Uses.

Temporary structures to house uses permitted in the GC, IND-H, IND-L, or MC Districts are permitted in such districts, for one year, provided:

- A. The applicant certifies that an application for site plan approval for building construction or expansion to accommodate the use located in the temporary structure will be submitted.
- B. The applicant certifies that an application for site plan approval for building construction or expansion to accommodate the use located in the temporary structure will be submitted
- C. The site plan application is submitted within six (6) months of the issuance of a zoning permit for the temporary structures. If the required site plan application is not submitted within six (6) months, the zoning permit for the temporary structure shall be revoked.

- D. If site plan review approval is received the zoning permit may be extended for an additional year.
- E. The temporary structures shall not be located in the front yard or within the required side or rear yards.

#### 211.5 Temporary Structures on Vacant Lots.

Temporary structures/uses on vacant lots shall conform to all requirements of the Zoning Ordinance. All such structures/uses shall be required to obtain a zoning permit.

#### 211.6 Hawkers, Peddlers and Itinerant Vendors.

In addition to any applicable requirements of this section, hawkers, peddlers and itinerant vendors shall comply with RSA Chapters 320 and 321 and all other applicable local Ordinances.

#### 211.7 Compliance.

All temporary uses and structures existent at the date of enactment of this Ordinance shall comply with the provisions of this section within sixty (60) days thereof.

### SECTION 212 ANTI-NUISANCE STANDARDS.

#### 212.1 General.

No use shall emit noise, odors, dust and smoke that is obnoxious, harmful or a nuisance to abutting properties or the neighborhood. Noise, odors and dust emitted by farming uses, including the keeping of livestock and poultry, that were existent as of the date of enactment of this Ordinance are exempt from this provision.

#### 212.2 Noxious Gases.

No use shall emit any noxious gases which endanger the health, comfort, safety or welfare of any person, or which may have a tendency to cause injury or damage property, business or vegetation.

#### 212.3 Vibration.

No use shall cause, as a result of normal operations, a vibration which creates displacement of 0.002 of one inch.

#### 212.4 Vision Impairment.

No use shall have lighting or signs which create glare which would impair or obstruct the vision of a driver of any motor vehicle.

#### 212.5 Fire, Explosion or Safety Hazard.

No use shall be such so as to potentially cause a fire, explosion or safety hazard.



## SECTION 213

## IMPACT FEES.

### 213.1 Authority.

These regulations are authorized by New Hampshire RSA 674:21, V, and other pertinent state law, as an innovative land use control. Under this authority, new development in the City of Lebanon may be assessed impact fees in proportion to its demand on the public capital facilities of the City and the School District.

### 213.2 Purpose.

The following regulations shall govern the assessment of impact fees for public capital facilities to accommodate the demands of new development on these facilities. These provisions are intended to:

- A. Assist in the implementation of the Master Plan and Capital Improvements Program;
- B. Provide for the public capital facilities necessitated by new development;
- C. Assess an equitable share of the cost of public capital facilities to new development in proportion to the facility demands of new development.

### 213.3 Definitions.

The following definitions shall be considered to pertain to this Section (213) only:

- A. Assessed property means any land or buildings comprising new development that is subject to an impact fee assessment.
- B. Assessment with respect to an impact fee means a notification issued to an assessed property by the City of Lebanon, its Planning Board, or its Building Inspector, stating the amount of an impact fee due and the conditions or schedule for its collection.
- C. Collection or collected with respect to an impact fee means the actual delivery of payment of the fee to the City of Lebanon on behalf of an assessed property.
- D. Impact fee means a fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public recreation facilities, not including public open space.
- E. New development means an activity that results in:
  - (1) The creation of a new dwelling unit or units or in the habitable portion of a residential building; or

- (2) The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or
  - (3) Construction resulting in a new non-residential building or a net increase in the floor area of any non-residential building; or
  - (4) The conversion of a lawful existing use to another use if such change would result in a net increase in the demand on public capital facilities that are the subject of impact fee assessment; however,
  - (5) New development shall not include the replacement of an existing manufactured housing unit or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in size, density, or type of use that would increase the demand on capital facilities for which impact fees are assessed.
- F. Off-site improvements means those improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan approval by the Planning Board. Such off-site improvements shall be limited to any necessary highway, drainage, and sewer and water upgrades pertinent to that development.
- G. Public open space means a parcel of land essentially unimproved and available to the public only for passive recreational use or natural resource conservation. City parks which do not include "public recreation facilities" constitute public open space within the meaning of this Paragraph.
- H. Public recreation facilities means the land and facilities owned or operated by the City of Lebanon, other than public open space, which are designed for the conduct of recreational sports, or other active leisure uses that include use of equipment, structures, or other improvements to the land to provide active indoor or outdoor public recreation programs or activities. Public recreation facilities shall include recreational improvements to conservation or open space lands, for example walking, hiking, or skiing trails for active recreation.
- I. School District means the Lebanon School District.

#### 213.4 Authority to Assess Impact Fees.

The Planning Board is hereby authorized to assess impact fees upon new development, as herein defined, and in accordance with the standards herein set forth. The Planning Board shall have the authority to adopt regulations to implement the provisions of this Ordinance and to delegate the administrative functions of impact fee assessment, collection and disbursement.

#### 213.5 Standards and Basis of Assessment.

- A. The amount of any impact fee shall be a proportional share of public facility improvement costs which are reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee.
- B. The Planning Board may prepare, adopt, or amend studies, reports, or cost allocation procedures that are consistent with the above standards, and which define a basis for impact fee assessment for public capital facilities, and the impact fee assessment schedules therefore.

- C. No methodology, cost allocation procedure, or other basis of assessment, nor related impact fee schedules, or changes in the basis of assessment or the fee schedules, shall become effective until it shall have been the subject of a public hearing before the Planning Board, in accordance with RSA 675:6 and :7.
- D. In the case of new development created by conversion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee assessed for the new use as compared to the highest impact fee that was or would have been assessed for the previous use in existence on or after the effective date of this Ordinance.
- E. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

#### 213.6 Review and Change in Assessment Schedules.

The impact fee assessment schedules shall be reviewed annually by the Planning Board, along with the foundation documents that provide the basis for the assessment schedules. Such review may result in recommended adjustments in one or more of the fees based on the most recent data as they affect the variables in the fee calculations. Changes in the impact fee assessment schedules shall be effective only where the change in the basis of assessment or the fee schedule is adopted following a public hearing on the proposed change.

#### 213.7 Assessment and Collection of Impact Fees.

- A. Where subdivision or site plan approval is required for new development, impact fees shall be assessed at the time of Planning Board approval of a subdivision plat or site plan.
- B. When no Planning Board approval is required, or has been made prior to the adoption or amendment of the impact fee Ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit.
- C. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected at the time when the development is ready for its intended use.
- D. The Planning Board and the assessed property owner may establish an alternate, mutually acceptable schedule of payment of impact fees. If an alternate schedule of payment is established, the Planning Board may require the applicant to post security, in the form of a cash bond, letter of credit, or performance bond so as to guarantee future payment of assessed impact fees.

#### 213.8 Waivers.

The Planning Board may grant full or partial waivers of impact fees to an assessed property where the Board finds that one or more of the following criteria are met with respect to the particular public capital facilities for which impact fees are normally assessed:

- A. An assessed property may apply for a full or partial waiver of public school impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over in a development that is also maintained in compliance with the provisions of RSA 354-A: 15, Housing For Older Persons. The Planning Board may waive school impact fee assessments on restricted-

occupancy units where it finds that the dwelling unit will be bound by lawful deeded restrictions on occupancy by senior citizens age 62 or over for a period of at least 20 years.

- B. An assessed property may apply to the Planning Board for a full or partial waiver of impact fee assessments imposed by this Ordinance on the basis of other contributions toward public capital facilities. The amount of such a waiver shall not exceed the value of land, facilities construction, or other contributions for public capital facilities. The value of on-site and off-site improvements which are required by the Planning Board as a result of subdivision or site plan review, and which would have to be completed by the developer, regardless of the impact fee provisions, shall not be considered eligible for waiver under this Ordinance. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. All costs incurred by the City for the review of a proposed waiver, including consultant and counsel fees, shall be paid by the applicant.
- C. The Planning Board may waive an impact fee, in whole or in part where, in the opinion of the Board, such fee would, due to interference with constitutionally-vested rights, pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of this Ordinance.

#### 213.9 Appeals under This Section.

- A. A party aggrieved by a decision made by the Code Enforcement Officer relating to administrative decisions in the assessment or collection of impact fees authorized by this Section may appeal such decision to the Planning Board within 30 days of the administrative decision, and not afterward.
- B. As set forth in RSA 676:5, III, a party aggrieved by a decision of the Planning Board under this Section may not appeal to the Zoning Board of Adjustment, but may appeal to the Grafton County Superior Court as provided by RSA 677:15, as amended.

#### 213.10 Administration of Impact Fees.

- A. All funds collected shall be properly identified and promptly transferred for deposit into an individual public capital facilities impact fee account for each of the categories under which impact fees are assessed, and shall be used solely for the purposes specified in this Ordinance. Impact fee accounts shall be segregated, nonlapsing accounts which shall under no circumstances be commingled with the City's general fund.
- B. Impact fees shall be paid out or applied to the provision of public capital facilities only upon specific authorization by the City Council.
- C. The City shall record all fees paid, by date of payment, name of the person making payment, and the parcel, lot or building for which the fee has been paid. The City shall maintain an updated record of the current ownership, tax map and lot reference number of each property for which an impact fee has been paid and the amount of that fee for a period of at least six (6) years.
- D. Funds withdrawn from the public capital facilities impact fee accounts shall be used solely for the purpose of acquiring, constructing, expanding or equipping public capital facilities or improvements made within the individual categories

established by the fee schedules and basis of assessment adopted by the Planning Board.

- E. In the event that bonds or similar debt instruments have been issued for public capital facilities which were constructed in anticipation of new development, or are issued for advanced provision of capital facilities identified in this Ordinance, impact fees may be used to pay debt service on such bonds or similar debt instruments.

213.11 Refund of Fees Paid.

- A. A refund shall be made to the owner of record of an assessed property for which an impact fee has been paid, where:
  - 1. The calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the City or the School District, and the City, or in the case of school impact fees the School District, has failed, within the period of six (6) years after the date of the payment of such fee, to appropriate the municipal share of related capital improvement costs; or
  - 2. The impact fee has not been encumbered or otherwise legally bound to be spent for the purpose for which it was collected within a period of six (6) years after the date of the payment of the fee.
- B. The City shall provide all owners of record who are due a refund, written notice of the amount due, including accrued interest.

213.12 Other Authority Retained.

This Ordinance shall not be deemed to affect other authority of the City or the Lebanon Planning Board over subdivisions or site plans, or rules and regulations pertaining to the City's water and sewer systems including, but not limited to:

- A. The authority of the Planning Board to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with RSA 674:36, II(a); or
- B. The authority of the Planning Board to require the payment of exactions for off-site improvements for highway, drainage, sewer and water upgrades necessitated by the development, in accordance with the provisions of RSA 674:21, V (j); or
- C. Other authority of the City of Lebanon to assess other capital investment fees or system development charges under the authority of other statutes, City Ordinances, or through the Site Plan Review and Subdivision Regulations of the Lebanon Planning Board.
- D. Nothing in this Section shall be construed to limit the existing authority of the Planning Board to disapprove proposed development which is scattered and premature, or which would require an excessive expenditure of public funds, or which would otherwise violate applicable Ordinances and regulations. Nothing in this Section shall be construed to limit the Board's authority to require off-site work to be performed by the applicant, or the Board's authority to impose other types of conditions of approval. Nothing in this Section shall be construed to affect types of fees governed by other statutes, City Ordinances or regulations.

SECTION 214            GOVERNMENTAL USES.

Governmental Uses shall be governed by RSA 674:54; provided, however, that governmental uses proposed by the City of Lebanon shall be considered to be subject to this Ordinance, unless expressly exempted from it by vote of the City Council.

SECTION 215            LOCATION OF ACCESSORY USE

An accessory use shall be permitted only upon the same lot where its respective primary use lawfully exists. In the case of lots in two zoning districts, an accessory use shall be permitted only on that portion of the lot where its respective primary use is permitted.

## ARTICLE III

### USE DISTRICTS

#### SECTION 300      ESTABLISHMENT OF USE DISTRICTS.

The City of Lebanon is hereby divided into the following use districts:

IND-L	Light Industrial
IND-RA	Industrial Rail Access
IND-H	Heavy Industrial
GC	General Commercial
CB	Central Business
R-1	Residential One
R-2	Residential Two
R-3	Residential Three
R-O	Residential-Office
R-O-1	Residential-Office-One
PB	Professional Business
RL-1	Rural Lands One
RL-2	Rural Lands Two
RL-3	Rural Lands Three
MC	Medical Center

Each district may be referred to by its respective abbreviation.

#### SECTION 301      ZONING MAP.

##### 301.1      Establishment.

The districts and the boundaries of such districts shall be as shown on a map entitled "OFFICIAL ZONING MAP OF THE CITY OF LEBANON" together with all notations, references and other matter and things set forth and/or attached thereto. This map, which was adopted on July 19, 1978, and amended several times thereafter, is hereby re-adopted. It shall be known as the Official Zoning Map of the City of Lebanon and shall be certified by the Mayor and City Clerk. Said map is to be prepared and updated by the City of Lebanon Planning Office.

##### 301.2      Location.

The original (an electronic and paper copy) of said Official Zoning Map shall remain on file with the City Clerk.

##### 301.3      Final Authority.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be published, the Official Zoning Map which is on file with the City Clerk shall be the final authority on current zoning.

##### 301.4      Boundaries of Districts.

Where uncertainty exists with respect to the boundaries of the various districts shown on the Official Zoning Map, the following rules shall apply:

- A. Where a district boundary is shown as following a street, road, railroad, utility line or watercourse, the boundary shall be construed as following the centerline of such facility, unless otherwise indicated.
- B. District boundaries shown as being set back from roads, streets, railroads, utility lines or watercourses are defined by a line parallel to such facility and set back from the centerline the number of feet shown on the map.
- C. Where a district boundary approximates the location of a lot line, the lot line, as it existed at the date of enactment of this Ordinance, shall be construed to be the boundary, unless otherwise indicated.
- D. Where a district boundary cuts across a lot, the boundary location shall be determined from the scale of the Official Zoning Map, unless otherwise indicated by dimensions noted on the map.

## SECTION 302      USES.

302.1 Permitted Uses. In the districts described herein, only those uses listed as "permitted uses" shall be permitted. Uses listed as "special exception" may be allowed, but only at the discretion of the Board of Adjustment pursuant to Section 801.3. Uses listed as "conditional use permit" may be allowed, but only at the discretion of the Planning Board pursuant to Section 302.4. It is the intent of this Ordinance that no other uses be allowed. All uses shall comply with the dimensional requirements of the "Table of Area, Dimension and Coverage" of the zoning district in which the use is located. Uses not listed are neither permitted nor allowed by special exception nor allowed by **conditional use** permit.

302.2 Accessory Uses. **Accessory uses** shall be considered permitted uses in all districts except that where such uses are accessory to uses permitted by **conditional use** permit or by **special exception**, the accessory use shall also require a **conditional use** permit or **special exception**, respectively.

302.3 Mixed use buildings. **Mixed use buildings** are permitted in all zoning districts.

### 302.4 Enhanced Performance Standards.

- A. Objective. The City hereby provides for the use of Enhanced Performance Standards as an Innovative Land Use Control authorized pursuant to RSA 674:21, I(h) in order to ensure a thorough and comprehensive review of the compatibility of certain land uses while providing for an integrated and streamlined public review by the Planning Board of certain proposed multi-family residential and non-residential development within the non-residential zoning districts of the City of Lebanon.
- B. Authorization. Pursuant to RSA 674:21, II, the Planning Board is hereby authorized to grant a Conditional Use Permit for uses identified in Article III as permitted by Conditional Use Permit if the application is found to be in compliance with the enhanced performance standards set forth in Section 302.4.D.
- C. Procedures. The Planning Board shall act upon the application in accordance with the procedural requirements of its Site Plan Review Regulations, and plan submission requirements shall be the same as stated in the Planning Board's Site Plan Review Regulations to any and all extent such regulations are applicable. The Planning Board may grant waivers from the submission



requirements in accordance with the applicable waiver provisions of the Site Plan Review Regulations.

D. Approval Standards. A **conditional use** permit shall be granted only if the Planning Board determines that the proposal conforms to all of the following standards:

1. The site is suitable for the proposal. This includes:
  - a. Adequate vehicular and pedestrian access for the intended use.
  - b. The availability of adequate public services to serve the intended use including emergency services, pedestrian facilities, safe access, and other municipal services.
  - c. The absence of environmental constraints (floodplain, steep slope, etc.) proposed to be impacted by the intended use.
  - d. The availability of appropriate utilities to serve the intended use including water, sewage disposal, stormwater treatment, electricity, and similar utilities.
2. External impacts: The external impacts of the proposed use on abutting properties and the neighborhood shall be commensurate with the impacts of adjacent existing uses or other uses permitted in the zoning district. This shall include, but not be limited to, water runoff, drainage, traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare. In addition, the location, nature, design, and height of the structure and its appurtenances, its scale with reference to its surroundings, and the nature and intensity of the use, shall not have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood. The proportion of the site proposed to be occupied by impervious surfaces shall be minimized to the extent necessary to preclude unreasonable risk of runoff, erosion, sedimentation, and other potentially adverse on-site or off-site effects.
3. Character of the site development: The proposed layout and design of the site shall not be incompatible with the established character of the neighborhood and shall mitigate any external impacts on abutters, the neighborhood, and nearby public ways and infrastructure. This shall include, but not be limited to, the relationship of the building(s) to the street, the amount, location, and screening of off-street parking, the treatment of yards and setbacks, the buffering of adjacent properties, and provisions for vehicular and pedestrian access to and within the site.
4. Character of the buildings and structures: The design of any new buildings or structures and the modification of existing buildings or structures on the site shall not be incompatible with the established character of the neighborhood. This shall include, but not be limited to, the scale, height, and massing of the building or structure, the roof line, locations of access, and visual compatibility with the area.
5. Preservation of natural, cultural, historic, and scenic resources: The proposed use and layout of the site, including all related development activities, shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties. This shall include, but not be limited to, identified wetlands, floodplains, significant wildlife habitat and documented wildlife

corridors, stonewalls, mature tree lines, identified historic buildings or sites, scenic views, and viewsheds.

- E. Safeguards and Other Conditions. Additionally, the Planning Board may impose conditions as it finds reasonably appropriate to safeguard the neighborhood and the general public or otherwise serve the purposes of this Ordinance, including such measures as set forth in Section 802.4 ("Special Conditions").
- F. Appeals. Any person aggrieved by a Planning Board decision on a conditional use permit may appeal that decision to the Superior Court, as provided for in RSA 677:15. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment (RSA 676:5, III).
- G. Telecommunication Facilities, PUDs, Planned Business Parks, and Non-Accessory Renewable Energy Facilities. Uses permitted by conditional use pursuant to Section 203.4 ("Telecommunication Facilities"), Section 501 ("Planned Unit Development (PUD)"), Section 508 ("Planned Business Park"), and Section 612.3 ("Non-Accessory Renewable Energy Systems") shall be subject to the provisions and requirements set forth in those sections and shall not be subject to Section 302.4.

**SECTION 303****LIGHT INDUSTRIAL DISTRICT (IND-L).****303.1 Purpose.**

The purpose of the IND-L District is to provide land in appropriate locations for the establishment of manufacturing plants and other businesses of a similar nature, which improve employment opportunities and strengthen the economic base of the city. Such activities should not adversely affect the natural environment, adjacent residential areas or community facilities. A variety of manufacturing, distribution and service industries, and certain limited support activities are allowed in the district. However, in order to preserve appropriate land for such uses, residential uses and many types of commercial uses, such as retailing and personal services, are not allowed.

**303.2 Table of Uses.****IND-L DISTRICT****PERMITTED USES**

1. Light Industry
2. Warehouse
3. Trucking terminal
4. Publishing/printing
5. Plumbing, electrical or carpentry shop
6. Research laboratory
7. Industrial PUD per Section 501
8. Local government use
9. Essential service
10. Airport
11. Outdoor storage per Section 303.4 (less than 20%)
12. Planned Business Park (Per Section 508)
13. Bus Terminal
14. Renewable energy system per Section 612
15. Retail Showroom per Section 303.5 (less than 10%)

**SPECIAL EXCEPTION**

1. Contractors yard
2. Educational Facility, Vocational School
3. Private athletic and/or health club
4. Group day care facility
5. Care and treatment of animals
6. Educational Facility, College/University

**USES PERMITTED BY  
CONDITIONAL USE PERMIT  
(see Section 302.4)**

1. Outdoor Storage per Section 303.4 (more than 20%)
2. Retail Showroom per Section 303.5 (between 10-20%)
3. Office Building for 50 or more Employees

### 303.3 Table of Area, Dimensions and Coverage.

#### **IND-L DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
2 acres	200'	40'	20'	20'	50%	65' See Section 303.7

### 303.4 Outdoor Storage.

Outdoor storage shall be permitted as an accessory use to a permitted use if it occupies an area of 20 percent or less of the footprint area of the principal building. Otherwise, outdoor storage shall require a **conditional use** permit from the Planning Board pursuant to Section 302.4. The 20% limitation shall not apply to Contractor's Yards. All outdoor storage, including outdoor storage for a Contractor's Yard, shall be appropriately screened from view from abutting parcels and shall not occupy required yard areas.

### 303.5 Retail Showrooms.

Showrooms and on-premise sales may be allowed as part of a warehouse or distribution facility if it occupies an area of 10 percent or less of the footprint area of the principal building. Otherwise, showrooms and on-premise sales shall require a **conditional use** permit from the Planning Board pursuant to Section 302.4 provided that: (1) such showrooms occupy no more than 20 percent of the floor area occupied by the warehouse or distribution facility; and (2) the goods being displayed are the same as those being stored/ distributed on the premises; and (3) all other requirements of Section 302.4 are met.

### 303.6 Flex-Buildings.

Flex-buildings (i.e. multi-use buildings) having no more than 30% of the floor area occupied by independent office uses are permitted, provided the principal use of the building is for a permitted use.

### 303.7 Special Height Restrictions.

On parcels adjacent to residential districts the height limitation of the adjacent residential district shall apply; but, on such parcels, building height may be increased above the residential limitation by one (1) foot for each two (2) feet that the building is set back from the required setback line(s) on sides of the lot adjacent to the residential district. However, in no case shall the height exceed 65 feet.

SECTION 303A      INDUSTRIAL - RAIL ACCESS DISTRICT (IND-RA).

303A.1 Purpose.

The purpose of the IND - RA District is to optimize the potential for sites with rail access to industries which can make use of this resource, and to encourage thereby the rejuvenation of rail transport in the City. The targeted industries for this district are those whose products or raw materials are more efficiently transported by rail than by highway. In recognition of the interdependence of industrial uses, a diversity of manufacturing, distribution, and service industries, with appropriate support activities, are allowed in the district.

303A.2 Table of Uses.

**IND-RA DISTRICT**

PERMITTED USES

1. Light Industry
2. Warehouse
3. Bituminous paving plant
4. Concrete mixing plant
5. Contractors yard
6. Retail showroom  
(per Section 303A.5)
7. Research laboratory
8. Recycling facility
9. Outdoor storage and sales
10. Industrial PUD per Section 501
11. Planned Business Park  
(per Section 303A.4)
12. Local government use
13. Essential Service
14. Renewable energy system  
per Section 612

SPECIAL EXCEPTION

1. Bulk petroleum and liquid propane gas storage
2. Natural resource extraction and/or processing facility (timber, stone, or soil)
3. Intermodal transportation facility
4. Educational Facility, Vocational School
5. Group day care facility
6. Private athletic and/or health club

USES PERMITTED BY  
CONDITIONAL USE PERMIT  
(see Section 302.4)

1. Office building

### 303A.3 Table of Areas, Dimensions, and Coverage.

#### **IND - RA DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
2 acres	200'	30' (*)	20' (*)	20' (*)	50%	65'

\*Setback will be waived for those portions of the lot where rail access is along the property line.

### 303A.4 Special Setback Restrictions.

Principal structures on lots in the IND-RA district which abut residential zoning district lines will be set back a minimum of 75 feet from the property line or lines which abut the residential zone.

### 303A.5 Retail Showrooms.

Showrooms and on-premises sales may be allowed as part of a manufacturing, warehouse or distribution facility provided that: (1) such showrooms are limited in floor area to no more than 10% of the total acreage of the lot on which they are located or a maximum of 20,000 square feet, whichever is smaller, and, (2) the goods being displayed are the same as those being manufactured/stored/distributed on the premises.

### 303A.6 Special Noise Restrictions.

- A. Noise beyond the limits set forth in this section shall be prohibited within 75 feet of abutting property lines of residential districts.

Maximum A-Weighted Sound Level in Decibels	
7:00 AM - 10:00 PM	10:00 PM - 7:00 AM
70	55

- B. Noise shall be measured using a sound meter meeting the standards of the American Standards Institute (ANSI S1.4-1983 *American Standard Specification for General Purpose Sound Level Meters*). The instrument shall be set to the A-weighted response scale and the meter to the slow response. Measurements shall be conducted in accordance with ANSI S 12.31 and S 12.32 *American Standard Meter for the Physical Measurement of Sound*. The slow level meter response of the sound-level meter shall be used in order to best determine that the amplitude has not exceeded the limiting noise level set forth in Section 303A.6A.

- C. The following uses and activities shall be exempt from the provisions of this Section:

- (1) Safety signals, warning devices, and emergency relief valves.
- (2) Power tools, including lawn mowers, snow blowers, and chain saws, when used for the construction or maintenance of property.

## SECTION 304      HEAVY INDUSTRIAL DISTRICT (IND-H).

### 304.1    Purpose.

The purpose of the IND-H District is to limit the location of industrial uses which have operational characteristics that are usually incompatible with other land uses to the area west of the Lebanon Municipal Airport, which is now dominated by such uses.

### 304.2    Table of Uses.

#### **IND-H DISTRICT**

##### PERMITTED USES

1.     Sanitary landfill
2.     Recycling facility
3.     Essential Service
4.     Sawmill per  
Section 304.5
5.     Contractors Yard
6.     Renewable energy system  
per Section 612

##### SPECIAL EXCEPTION

1.     Junkyards per  
Section 605
2.     Removal of natural  
materials
3.     Bulk storage of  
petroleum products

##### USES PERMITTED BY CONDITIONAL USE PERMIT (see Section 302.4)

1.     Bituminous paving plant
2.     Concrete mixing plant
3.     Stone crushing plant

**304.3**    **Table of Area, Dimensions and Coverage.**

**IND-H DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
2 acres	200'	40'	20'	20'	50%	65' See Section 304.4

**304.4**    **Special Height Restriction.**

On parcels adjacent to residential districts the height limitation of the adjacent residential district shall apply; but, on such parcels, building height may be increased above the residential limitation by one (1) foot for each two (2) feet that the building is set back from the required setback line(s) on sides of the lot adjacent to the residential district. However, in no case shall the height exceed 65 feet.

**304.5**    **Sawmills.**

Sawmills shall not be located within 200 feet of any property line. Outdoor storage shall not be located within the required front yard or within 50 feet of any property line.



**SECTION 305****GENERAL COMMERCIAL DISTRICT (GC).****305.1 Purpose.**

The purpose of the GC District is to provide ample land with good highway access for the location of commercial development serving the regional and local markets.

**305.2 Table of Uses.****GC DISTRICT****PERMITTED USES**

1. Retail store
2. Personal service
3. Financial Institution
4. Restaurant, sandwich shop
5. Drive-in restaurant, refreshment stand
6. Office
7. Motel, hotel
8. Movie theater
9. Funeral establishment
10. Commercial PUD per Section 501
11. Membership club
12. Amusements (indoor)
13. Vehicular sales
14. Vehicular repair
15. Service station
16. Publishing/printing
17. Radio or TV studio
18. Group day care facility
19. Local government use
20. Drive-through facility
21. Laundromat
22. Drycleaning pick-up station
23. Church
24. Multi-family Dwelling (See Section 305.5)
25. Community Center
26. Dwelling unit(s) above first floor
27. Renewable energy system per Section 612

**SPECIAL EXCEPTION**

1. Truck terminal
2. Essential Service
3. Bus terminal
4. Educational Facility, College/University
5. Alternative Treatment Center per Section 613
6. Alternative Treatment Center (Cultivation Location Only) per Section 613

**USES PERMITTED BY  
CONDITIONAL USE PERMIT  
(see Section 302.4)**

1. Warehouse
2. Wholesale sales
3. Contractor's yard
4. Plumbing, electrical or carpentry shop
5. Craftsman's shop
6. Indoor/outdoor recreational facility
7. Care and animals
8. Produce stand

**305.3**    **Table of Area, Dimension and Coverage.**

**GC DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
50,000 square feet	150'	40'	20'	20'	30%	45' See Section 305.4

**305.4**    **Special Height Restriction.**

On parcels adjacent to residential districts the height limitation of the adjacent residential district shall apply; but, on such parcels, building height may be increased above the residential limitation by one (1) foot for each two (2) feet that the building is set back from the required set back line(s) on sides of the lot adjacent to the residential district. However, in no case shall the height exceed 45 feet.

**305.5**    **Dwelling Unit Density.**

Density determinations for multi-family dwellings and mixed use buildings shall be made by the Planning Board during the course of site review based on site specific conditions and factors such as the availability of parking and/or the ability to provide required parking, the availability of adequate water and sewer, and the ability to provide required site improvements and to meet all other requirements of the Site Plan Review Regulations and all other applicable City regulations.

**SECTION 306****CENTRAL BUSINESS DISTRICT (CB).****306.1 Purpose.**

The purpose of the CB District is to provide in-town areas for retail and service businesses, banks, offices and government facilities in Lebanon and West Lebanon. Other related commercial activities and higher density residential uses should be encouraged.

**306.2 Table of Uses.****CB DISTRICT****PERMITTED USES**

1. Retail store
2. Personal service
3. Financial Institution
4. Office
5. Restaurant, sandwich shop
6. Motel, hotel
7. Radio or TV studio
8. Funeral establishment
9. Membership club
10. Commercial PUD per Section 501
11. Library or museum
12. Theater, concert hall,  
movie theater
13. Social service center
14. Amusements (indoors)
15. Church
16. Multi-family dwelling (See Section 306.5)
17. Dwelling unit(s) above  
first floor
18. Senior housing complex
19. Local government use
20. Laundromat
21. Drycleaning pick-up station
22. Community Center
23. Renewable energy system per Section 612

**SPECIAL EXCEPTION**

1. Group day care facility
2. Vehicular sales
3. Craftsman's shop
4. Educational Facility,  
College/University
5. Drive-through facility

**USES PERMITTED BY****CONDITIONAL USE PERMIT**

**(see Section 302.4)**

1. Publishing/printing
2. Essential service
3. Indoor/outdoor recreation facility
4. Parking facility
5. Other uses per Section 306.4

306.3 Table of Area, Dimensions and Coverage.

**CB DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
3,000 square feet	50'	NONE	NONE	10' (*)	NONE	45'

\*May be reduced or eliminated by special exception.

306.4 Other Uses.

Other uses include any use not identified in Section 306.2 that will contribute positively to the vibrancy of the Central Business District. Such other uses shall be permitted by **conditional use** permit from the Planning Board pursuant to Section 302.4 provided the applicant demonstrates that the proposed use:

- 1) Will encourage the presence of the public in the Central Business District and/or create regular and sustained opportunities for members of the public to utilize the Central Business District. Examples include, but are not limited to, providing a retail, personal service, and/or restaurant component which is accessory to the primary use.
- 2) Will not be incompatible with abutting properties and uses. An example of incompatibility includes, but is not limited to, credible evidence that the proposed use will negatively impact the value of any abutting property and/or the viability of any existing abutting use.
- 3) Meets the standards set forth in Section 302.4.

306.5 Dwelling Unit Density.

Density determinations for multi-family dwellings and mixed use buildings shall be made by the Planning Board during the course of site review based on site specific conditions and factors such as the availability of parking and/or the ability to provide required parking, the availability of adequate water and sewer, and the ability to provide required site improvements and to meet all other requirements of the Site Plan Review Regulations and all other applicable City regulations.

SECTION 307            (RESERVED).

SECTION 308            RESIDENTIAL ONE DISTRICT (R-1).

308.1    Purpose.

The purpose of the R-1 District is to provide areas for all types of residential uses at relatively high densities.

308.2    Table of Uses.

**R-1 DISTRICT**

PERMITTED USES

SPECIAL EXCEPTION

- |   |   |
|---|---|
| 1.    One family dwelling   | 1.    Multi-family conversion<br>(7 or more units) per<br>Section 601 |
| 2.    Two family dwelling   |   |
| 3.    Multi-family dwelling (NEW)   | 2.    Tourist home (or bed<br>and breakfast facility)                 |
| 4.    Multi-family conversion<br>(six or fewer units) per<br>Section 601              | 3.    Lodging house   |
| 5.    Senior housing complex  | 4.    Group residence   |
| 6.    Home business per<br>Section 600  | 5.    Group day care facility   |
| 7.    PURD per Section 501  | 6.    Funeral home  |
| 8.    Manufactured home park<br>per Section 503                                       | 7.    Essential service   |
| 9.    Manufactured home<br>subdivision per Section 504<br>(or manufactured home PURD) | 8.    Indoor/outdoor<br>recreational facility                         |
| 10.   Church  | 9.    Nursing home  |
| 11.   Public education facility   | 10.   Cemetery  |
| 12.   Public recreation facility  |   |
| 13.   Public safety facility  |   |
| 14.   Accessory dwelling unit per Section 610   |   |
| 15.   Renewable energy system per Section 612   |   |

**308.3**    **Table of Area, Dimensions and Coverage.**

**R-1 DISTRICT**

**Minimum Lot Size**

Class	Area	Width	Additional Area per D.U. After Two	Maximum Height
1	10,000 sq.ft.	75'	3,000 sq.ft.	45'
2	15,000 sq.ft.	75'	5,000 sq.ft.	45'
3	40,000 sq.ft.	100'	15,000 sq.ft.	45'

**Minimum Yard**

Class	Front	Side	Rear	Maximum Building Coverage
1	20' (*)	15'	20'	25%
2	20' (*)	15'	20'	20%
3	25' (*)	25'	30'	15%

\*40' on state highways or major thoroughfares, but see Section 201.2.

## SECTION 309

## RESIDENTIAL TWO DISTRICT (R-2).

### 309.1 Purpose.

The R-2 District is designed to preserve the older, established residential sections of the city as viable residential neighborhoods. The conversion of large older dwellings, and other buildings to multi-family dwellings, office, educational and cultural facilities is allowed, subject to appropriate controls in Section 601 but new multi-family dwellings, offices, private educational and cultural facilities are not allowed.

### 309.2 Table of Uses.

#### **R-2 DISTRICT**

##### PERMITTED USES

1. One family dwelling
2. Two family dwelling
3. Senior housing complex
4. Home business per  
Section 600
5. PURD per Section 501
6. Church
7. Public education facility
8. Public recreation facility
9. Public safety facility
10. Accessory dwelling unit  
per Section 610
11. Renewable energy system  
per Section 612

##### SPECIAL EXCEPTION

1. Multi-family conversion  
per Section 601
2. Office conversion per  
Section 601
3. Funeral home
4. Essential service
5. Indoor/outdoor recreational  
facility
6. Nursing home
7. Tourist home (or bed and  
breakfast facility)
8. Group residence
9. Lodging house
10. Group day care facility
11. Cemetery

**309.3 Table of Area, Dimension and Coverage.**

**R-2 DISTRICT**

**Minimum Lot Size**

Class	Area	Width	Additional Area per D.U. After Two	Maximum Height
1	10,000 sq.ft.	75'	3,000 sq.ft.	45'
2	15,000 sq.ft.	75'	5,000 sq.ft.	45'
3	40,000 sq.ft.	100'	15,000 sq.ft.	45'

**Minimum Yard**

Class	Front	Side	Rear	Maximum Building Coverage
1	20' (*)	15'	20'	25%
2	20' (*)	15'	20'	20%
3	25' (*)	25'	30'	15%

\*40' on state highways or major thoroughfares, but see Section 201.2.



## SECTION 310

## RESIDENTIAL THREE DISTRICT (R-3).

### 310.1 Purpose.

The purpose of the R-3 District is to provide areas primarily for single family residential neighborhoods.

### 310.2 Table of Uses.

#### **R-3 DISTRICT**

##### PERMITTED USES

1. One family dwelling
2. Home business per Section 600
3. PURD per Section 501
4. Public education facility
5. Public safety facility
6. Public recreation facility
7. Hospital
8. Renewable energy system per Section 612

##### SPECIAL EXCEPTION

1. Two family dwelling by conversion of existing one family dwelling
2. Essential Service
3. Group day care facility
4. Senior housing complex
5. Nursing home
6. Church
7. Cemetery
8. Accessory Dwelling Unit per Section 610

**310.3 Table of Area, Dimensions and Coverage.**

**R-3 DISTRICT**

**Minimum Lot Size**

Class	Area	Width	Maximum Height
1	10,000 sq.ft.	75'	35'
2	15,000 sq.ft.	75'	35'
3	40,000 sq.ft.	100'	35'

**Minimum Yard**

Class	Front	Side	Rear	Maximum Building Coverage
1	20' (*)	15'	20'	25%
2	20' (*)	15'	20'	20%
3	25' (*)	25'	30'	15%

\*40' on state highways or major thoroughfares, but see Section 201.2.

## SECTION 311

## RESIDENTIAL-OFFICE DISTRICT (R-O).

### 311.1 Purpose.

The purpose of the R-O District is to preserve the residential character of older, established neighborhoods by carefully guiding the transition of residential structures to office use. The district balances the goals of: (1) preserving the economic viability of older large dwellings located on heavily traveled streets; (2) providing attractive locations for small offices; and, (3) preserving the residential character of older established neighborhoods.

### 311.2 Table of Uses.

#### **R-O DISTRICT**

##### PERMITTED USES

1. One family dwelling
2. Two family dwelling
3. Multi-family conversion  
(3 or fewer units) per  
Section 601
4. Home Business per Section 600
5. Conversion of a dwelling  
to office use per Section 601
6. Church
7. Community Center
8. Personal Service
9. Renewable energy system per  
Section 612
10. Accessory Dwelling Unit

##### SPECIAL EXCEPTION

1. Multi-family conversion (4 or  
more units) per Section 601
2. Tourist home (or bed and  
breakfast facility)
3. Lodging house
4. Group residence
5. Group day care facility
6. Senior housing complex  
(by conversion only)
7. Hospice
8. Funeral home
9. Essential service
10. Educational Facility,  
Primary/Secondary
11. Indoor/outdoor  
recreational facility
12. Public safety facility
13. Cemetery
14. Educational Facility,  
College/University
15. Library or museum conversion  
per Section 601
16. Theater, concert hall, movie  
theater conversion per Section  
601

**311.3 Table of Area, Dimensions and Coverage.**

**R-O DISTRICT**

**Minimum Lot Size**

Class	Area	Width	Additional Area per D.U. After Two	Maximum Height
1	10,000 sq.ft.	75'	3,000 sq.ft.	45'
2	15,000 sq.ft.	75'	5,000 sq.ft.	45'
3	40,000 sq.ft.	100'	15,000 sq.ft.	45'

**Minimum Yard**

Class	Front	Side	Rear	Maximum Building Coverage
1	20' (*)	15'	20'	25%
2	20' (*)	15'	20'	20%
3	25' (*)	25'	30'	15%

\*40' on state highways or major thoroughfares, but see Section 201.2.

SECTION 311A      RESIDENTIAL-OFFICE-ONE DISTRICT (R-O-1).

311A.1 Purpose.

The purpose of the R-O-1 district is to provide for well-planned neighborhoods of offices and higher density housing by carefully guiding the integration of multi-residential housing and office uses. The district balances the goals of: (1) preserving the economic viability of older, large dwellings modified to accommodate multiple residential units or office space or both; (2) providing for attractive locations for small offices; and (3) providing for new office buildings compatible with surroundings.

311A.2 Table of Uses.

**R-O-1 DISTRICT**

PERMITTED USES

1. One family dwelling
2. Two family dwelling
3. Multi-family conversion (3 or fewer units) per Section 601
4. Home business per Section 600
5. Conversion of a dwelling to office use per Section 601
6. Construction of new office building (3,000 sq. ft. or less) per Section 601
7. Church
8. Personal Service
9. Financial Institution
10. Renewable energy system per Section 612
11. Accessory Dwelling Unit per Section 610

SPECIAL EXCEPTION

1. Multi-family conversion (4 or more units) per Section 601
2. New multi-family construction (4 or more units) per Section 601
3. Construction of new office building (3,001 - 6,000 sq. ft.) per Section 601
4. Tourist home (or bed and breakfast facility)
5. Lodging house
6. Group residence
7. Group day care facility
8. Senior housing complex
9. Hospice
10. Funeral home
11. Essential services
12. Indoor/outdoor recreational facility
13. Educational Facility, Primary/Secondary
14. Public safety facility
15. Educational Facility, College/University

311A.3 Table of Area, Dimensions and Coverage.

**R-O-1 DISTRICT**

**Minimum Lot Size**

Class	Area	Width	Additional Area per D.U. After Two	Maximum Height
1	10,000 sq.ft.	75'	3,000 sq.ft.	45'
2	15,000 sq.ft.	75'	5,000 sq.ft.	45'
3	40,000 sq.ft.	100'	15,000 sq.ft.	45'

**Minimum Yard**

Class	Front	Side	Rear	Maximum Building Coverage
1	20' (*)	15'	20'	25%
2	20' (*)	15'	20'	20%
3	25' (*)	25'	30'	15%

\*40' on state highways or major thoroughfares, but see Section 201.2.

## SECTION 311B      PROFESSIONAL BUSINESS DISTRICT (PB).

### 311B.1 Purpose.

The purpose of the PB District is to:

1. Safeguard, enhance, and perpetuate the architecturally historic structures within the district;
2. Support and promote business and commerce and provide economic benefit to the City by protecting and enhancing the visual attractiveness of the City to home buyers, business people, tourists, visitors, and shoppers;
3. Conserve and improve the value of property within the Professional Business District;
4. Prevent future urban blight by fostering and encouraging the preservation, restoration, and rehabilitation of historic structures, areas, and neighborhoods;
5. Foster civic pride in the beautiful and noble architectural accomplishments of the past.

### 311B.2 Table of Uses.

#### **PB DISTRICT**

##### PERMITTED USES

1. One family dwelling
2. Two family dwelling
3. Multi-family dwelling  
per Section 311B.7
4. Office
5. Church
6. Personal Service
7. Renewable energy system  
per Section 612
8. Accessory Dwelling Unit  
per Section 610

##### SPECIAL EXCEPTION

1. Group day care facility
2. Tourist home (or bed and  
breakfast facility)
3. Lodging house
4. Educational Facility,  
Primary/Secondary
5. Public safety facility
6. Public recreation facility
7. Educational Facility,  
College/University

### 311B.3 Table of Area, Dimensions and Coverage.

#### **PB DISTRICT**

##### **Minimum Lot Size**

Class	Area	Width	Maximum Height
1	10,000 sq.ft.	75'	45'
2	15,000 sq.ft.	75'	45'
3	40,000 sq.ft.	100'	45'

##### **Minimum Yard**

Class	Front	Side	Rear	Maximum Building Coverage
1	20' (*)	15'	20'	25%
2	20' (*)	15'	20'	20%
3	25' (*)	25'	30'	15%

\*40' on state highways or major thoroughfares, but see Section 201.2.

### 311B.4 Parking Requirements.

Parking shall be as set out in Section 607.4 of this Ordinance except that parking shall be provided on site for any dwelling unit(s). Such on-site parking shall not occupy the front yard and shall be screened from abutting properties.

### 311B.5 Setback Requirements.

For the construction of any new addition to an existing building, the minimum yard depth may be reduced to the alignment of the existing, dominant building wall exclusive of minor projections, for example bay windows.

### 311B.6 Reconstruction.

Notwithstanding the provisions of Section 703.2, a previously destroyed or removed nonconforming feature of an historic structure, to include but not limited to a bay window, dormer, porch, cupola, portico, and awning, may be reconstructed by special exception pursuant to Section 801.3. In addition to the findings required by Section 801.3, the Board of Adjustment shall find:

- A. That the reasonable use of abutting properties is not adversely affected by the reconstruction; and
- B. That the Heritage Commission has verified the prior existence of the feature; and
- C. That the feature is compatible with the existing design of the structure and with the character of the neighborhood.

### 311B.7 Dwelling Unit Density.

Density determinations for multi-family dwellings and mixed use buildings shall be made by the Planning Board during the course of site review based on site specific conditions and factors such as the availability of parking and/or the ability to provide required parking, the availability of adequate water and sewer, and the ability to provide required site improvements and to meet all other requirements of the Site Plan Review Regulations and all other applicable City regulations.



**SECTION 312****RURAL LANDS ONE DISTRICT (RL-1).****312.1 Purpose.**

The purpose of the RL-1 District is to provide areas of transition between the denser urban neighborhoods of the R Districts and the more sparsely settled and/or more environmentally sensitive RL-2 and RL-3 areas.

**312.2 Table of Uses.****RL-1 DISTRICT****PERMITTED USES**

1. Agriculture
2. One family dwelling
3. Home business  
per Section 600
4. PURD per Section 501
5. PRec per Section 501
6. Manufactured home park  
per Section 503
7. Manufactured home subdivision  
per Section 504 (or manufactured  
home PURD)
8. Public education facility
9. Public recreation facility
10. Church
11. Renewable energy system per Section 612

**SPECIAL EXCEPTION**

1. Recreational camping park  
per Section 505
2. Indoor/outdoor recreational  
facility
3. Group day care facility
4. Radio or TV tower or other  
communication equipment
5. Essential service
6. Cemetery
7. Care and treatment of  
animals
8. Accessory Dwelling Unit  
per Section 610
9. Home based contractor's yard  
per Section 600A

**312.3 Table of Area, Dimensions and Coverage.**

**RL-1 DISTRICT**

Minimum Lot Requirements						Maximum Limitations	
Class	Lot Area	Lot Frontage	Front Yard	Side Yard	Rear Yard	Height	Building Coverage
1 or 2	1 acre	150'	40'	25'	30'	35'	15%
3	3 acres (*)	150'	40'	25'	30'	35'	15%

\*The minimum lot size may be reduced to an area not smaller than one (1) acres by application of the High Intensity Soils Mapping Standards (i.e. HIS) of Appendix B.

**SECTION 313****RURAL LANDS TWO DISTRICT (RL-2).****313.1 Purpose.**

The purpose of the RL-2 District is to provide land for low density, rural living.

**313.2 Table of Uses.****RL-2 DISTRICT****PERMITTED USES**

1. Agriculture
2. One family dwelling
3. Home business  
per Section 600
4. PURD per Section 501
5. PRec per Section 501
6. Public recreation facility
7. Manufactured home park  
per Section 503
8. Manufactured home subdivision  
per Section 504 (or manufactured  
home PURD)
9. Church
10. Renewable energy system  
per Section 612

**SPECIAL EXCEPTION**

1. Recreational camping park  
per Section 505
2. Indoor/outdoor recreational  
facility
3. Group day care facility
4. Produce stand
5. Care and treatment of  
animals
6. Removal of natural materials
7. Essential service
8. Radio or TV tower or other  
communication equipment
9. Cemetery
10. Accessory Dwelling Unit  
per Section 610
11. Home based contractor's yard  
per Section 600A

**313.3 Table of Area, Dimensions and Coverage.**

**RL-2 DISTRICT**

Minimum Lot Requirements						Maximum Limitations	
Class	Lot Area	Lot Frontage	Front Yard	Side Yard	Rear Yard	Height	Building Coverage
1 or 2	1 acre	150'	40'	20'	25'	35'	20%
3	3 acres (*)	200'	40'	35'	30'	35'	10%

\*The minimum lot size may be reduced to an area not smaller than one (1) acres by application of the High Intensity Soils Mapping Standards (i.e. HIS) of Appendix B.

**SECTION 314****RURAL LANDS THREE DISTRICT (RL-3).****314.1 Purpose.**

These are areas within the City that are critical areas for development, or development should be restricted until it has been further studied and detailed plans developed. In the first instance these are critical areas where slopes of over twenty-five percent (25%) may be found, wetlands and a seasonably high water-table exist or have poor highway access to the rest of the community. Also the areas almost uniformly have severe restrictions for on-site disposal of sewage and any extensive development, including driveways, may present problems in grades and control of erosion. The primary purpose of these areas should be for forestry and only limited development for single family residential purposes on large lots. The second type in this classification are areas that are reserved for future expansion when the necessary utilities and road systems are designed or in place.

**314.2 Table of Uses.****RL-3 DISTRICT****PERMITTED USES**

1. Agriculture
2. PURD per Section 501
3. PRec per Section 501
4. Home business  
per Section 600
5. Public recreation facility
6. Renewable energy system  
per Section 612

**SPECIAL EXCEPTION**

1. One family dwelling
2. Recreational camping park  
per Section 505
3. Indoor/outdoor recreational  
facility
4. Essential service
5. Radio or TV tower or other  
communication equipment
6. Cemetery
7. Accessory Dwelling Unit  
per Section 610
8. Home based contractor's yard  
per Section 600A

**314.3 Table of Area, Dimensions and Coverage.****RL-3 DISTRICT**

Minimum Lot Requirements				Maximum Limitations	
Lot Area	Front Yard	Side Yard	Rear Yard	Height	Building Coverage
10 acres	50'	50'	50'	35'	1%

## SECTION 315

## MEDICAL CENTER DISTRICT (MC).

### 315.1 Purpose.

The purpose of this district is to provide for the establishment and maintenance of a use which has as its goal, the provision of inpatient and outpatient health care, the furnishing of undergraduate and graduate medical education, the performance of medical research and other related and complimentary uses. This district recognizes the integrated and interdependent nature of this use, the importance of accessibility to the public and the virtue of maintaining natural land features. This district, and any use within, shall be serviced with public water and sewer systems, and any development shall adequately address vehicular and pedestrian traffic concerns, impacts on City services, including but not limited to schools, police protection and fire protection.

This district will be dominated by a Medical Center Complex as defined in this Ordinance. Therefore, it is recognized that certain service-type uses may be advantageous in the immediate vicinity of the complex and have therefore been provided for as uses allowed by **conditional use** permit pursuant to Section 302.4. It is anticipated that impacts on City streets and highways may be reduced by allowing for these uses in the vicinity of the complex.

### 315.2 Table of Uses.

#### **MC DISTRICT**

##### PERMITTED USES

1. Medical center complex per Section 506
2. Medical office building
3. Medical research facility
4. Hospice
5. Commercial PUD per Section 501
6. Essential service
7. Group day care facility
8. Renewable energy system per Section 612

##### CONDITIONAL USE PERMIT (see Section 302.4)

1. Retail store
2. Restaurant
3. Financial Institution
4. Motel/hotel
5. Parking facility
6. Office
7. Personal service
8. Drive-through facility

**315.3**    **Table of Area, Dimensions and Coverage.**

**MC DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Lot Area	Lot Frontage	Front Yard	Side Yard	Rear Yard	Height	Building Coverage
75,000 sq.ft.	200'	40'	20'	20'	60' (See Section 315.4)	50%

**315.4**    **Special Height Restriction.**

On parcels adjacent to residential districts the height limitation of the adjacent residential district shall apply; but, on such parcels, building height may be increased above the residential limitation by one(1) foot for each two (2) feet that the building is set back from the required setback line(s) on sides of the lot adjacent to the residential district. However, in no case shall the height exceed 60 feet (or 100 feet if allowed by Section 506.2).

## ARTICLE IV

### OVERLAY DISTRICTS

#### SECTION 400      ESTABLISHMENT OF OVERLAY DISTRICTS.

The following overlay districts are hereby established:

- Wetlands Conservation District
- Flood Plain District
- Steep Slope District
- Airport Protection District
- Historic District
- Landfill Reclamation District
- Riverbank Protection District

In the areas of the City which are included in an overlay district, the regulations of the overlay district shall apply in addition to the regulations of the applicable use district. Where regulations in a use district and an overlay district conflict, the regulation of the most restrictive district shall apply.

#### SECTION 401      WETLANDS CONSERVATION DISTRICT.

##### 401.1      Purposes.

The purposes of the Wetlands Conservation District are to:

- A. Preserve wetlands, which provide flood protection, recharge groundwater supply, augment stream flow during dry periods, provide wildlife habitat, and enhance water quality; and which are important for such other reasons as those cited in RSA 482-A:1.
- B. Prevent the development of structures and land uses on wetlands, which would contribute to the pollution of surface or ground water, disrupt wetland ecosystems, and damage property due to flooding.
- C. Prevent unnecessary or excessive expenses to the City of Lebanon for essential services and utilities because of the incompatible use of wetlands.
- D. Allow those uses that can be appropriately and safely located in wetlands, following best management practices recognized by the State of New Hampshire.
- E. Protect wetland-dependent wildlife habitat for native flora & fauna.
- F. Enhance protection for the high quality wetlands located in the City of Lebanon, which require naturally vegetated buffers for the integrity of their ecosystems.
- G. Preserve and enhance scenic and educational values associated with the wetlands in the City of Lebanon.
- H. Achieve a higher level of protection in wetlands categorized as of high or very high function and value, by prohibiting inappropriate uses.



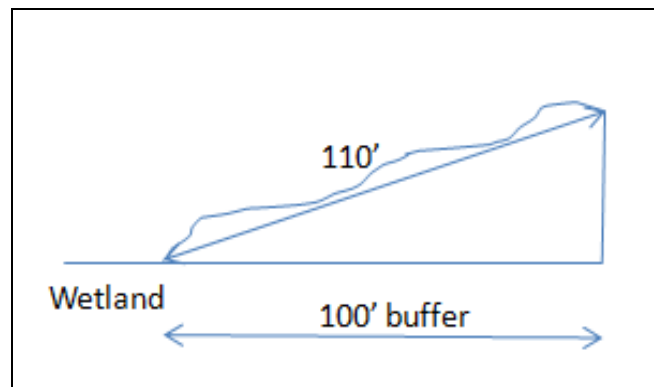
#### 401.2 Description of Wetlands Conservation District.

The Wetlands Conservation District includes the following:

- A. All areas in the City that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions as set forth in RSA 482-A and 674:55.
- B. A horizontal buffer of 100 feet to all wetlands of High or Very High Value according to *Natural Lebanon: Results of the Phase II Natural Resource Inventory of the City of Lebanon, NH* (June 2010), and further depicted in the Lebanon Wetland Overlay District map adopted March 12, 2013.
- C. Buffers are applied irrespective of lot lines and municipal boundaries. When a wetland is located solely on one side of a street or public street, buffer restrictions shall not apply to any properties on the opposite side of the street or public street.

#### 401.3 Boundary Disputes:

In a dispute about the boundary of the Wetlands Conservation District, the edge of a wetland, as defined by RSA 482-A and as required by RSA 674:55, shall be determined by a certified wetland scientist using field methods prescribed by the *Army Corps of Engineers Wetland Delineation Manual* (January 1987) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region* (January 2012, as amended). Where applicable, the edge of the buffer shall be computed as a horizontal distance from the edge of the wetland, as determined above. If the land is sloped, the measurement along the sloped ground is not applicable (see diagram). The City may retain an independent certified wetland scientist to map the area in question and require the applicant to pay the cost thereof.



#### 401.4 Permitted Uses.

The following table identifies the uses that are permissible within the Wetland Conservation District, provided such uses do not involve a structure (except as expressly referenced) and do not alter the surface configuration of the land by the addition of fill, by excavation or dredging, by the construction of dams, or by any other process which would alter the ground or surface water level of any portion of the wetlands, including but not limited to channeling, draining or other means:

Table 401.4 Permitted Uses

Wetland	Wetland (High & Very High Value)	Wetland Buffer (100' to Very High & High Value wetland)
A, B, C, D, E, F, G, I	C, E, F, G	A*, B, C, D, E, F, G, H, I

- A. Forestry, tree farming; and agriculture, including grazing, hay production, truck gardening, and silage production; provided the applicant demonstrates that such uses adhere to best management practices (see Appendix A) and will not cause or contribute to soil erosion, and that such use is not detrimental to surface water or ground water because of the use of pesticides, fertilizers, herbicides, toxic or other hazardous substances.

*\*See section 401.6.C Special Provisions for additional requirements of these permitted uses within section 401.2.B Wetland Buffers.*

- B. Wells for water supplies.
- C. Wildlife habitat development and management.
- D. Low-impact recreational uses such as pedestrian trails.
- E. Open space as permitted by the City of Lebanon Subdivision Regulations and other sections of this Ordinance.
- F. Conservation.
- G. Wetland enhancement or restoration.
- H. Only within the wetland buffer, minor accessory structures of 130 square feet or less in which there is no storage of petroleum products, hazardous chemicals or materials.
- I. Use otherwise permitted at that site by the Zoning Ordinance and State and Federal law, provided such use does not involve a structure (except as expressly referenced), and does not alter the surface configuration of the land by the addition of fill, by excavation or dredging, by the construction of dams, or by any other process which would alter the ground or surface water level of any portion of the wetlands, including but not limited to channeling, draining or other means.

#### 401.5 Special Exceptions.

Except for projects proposed within the High and Very High Value wetlands portion of the Wetland Conservation District, projects that qualify for a Permit by Notification, Minimum Impact Expedited Permit or any other type of Minimum Impact Permit from the State of NH Dept. of Environmental Services Wetlands Bureau shall be exempt from the requirement to obtain a special exception. However, a notification form informing of said projects shall be supplied to the Zoning Administrator.

Upon application to the Zoning Board of Adjustment, excepting the Wetland Conservation District identified as Very High or High Value wetland, a special exception may be requested to permit the erection of a structure; the construction of streets, roads, and other access ways; for pipelines, powerlines, and other transmission lines; and the

construction of fences, footbridges, catwalks and docks within the Wetlands Conservation District, provided that all of the following conditions are found to exist, in lieu of the findings required by Section 801.3:

- A. The use for which the exception is sought cannot feasibly, after consideration of all alternatives, be carried out on a portion or portions of the lot which are outside the Wetlands Conservation District; and
- B. Due to the provisions of the Wetlands Conservation District, as applied to the particular characteristics, setting and environment of the property, the lot cannot reasonably be used for any of the uses permitted or allowed by special exception, without some form of special exception under this section; and
- C. The design and construction of the proposed use is consistent with the purpose and intent of Section 401.1 (A), (B) and (C) of this Ordinance, and adequate conservation measures shall be taken to mitigate the detrimental effects of the proposed use on the natural function of the wetlands. Such measures may include but are not limited to wetland restoration or enhancement, wetland preservation, or the construction and maintenance of new wetland areas adjacent to the proposed use to replace those portions of the natural wetland affected by the proposed use; and
- D. The proposed construction design of pipelines, powerlines and other transmission lines shall include provisions for restoration of the site as closely as possible to its original grade and conditions; and
- E. The proposed use shall not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of ground water, or any other reason; and
- F. The project is capable of complying with all State and Federal wetlands and wetlands permitting requirements. Note: Applications for required Federal and State wetland permits need not have been applied for, but a zoning permit shall not be issued until all such permits have been granted.
- G. The project is capable of conforming to all existing best management practices, as referenced in Appendix A, and will be implemented in a way which conforms to those practices, and which complies with any other conditions imposed by the Zoning Board of Adjustment.

Table 401.5 Special Exception

	<b>Wetland</b>	<b>Wetland (High &amp; Very High Value)</b>	<b>Wetland Buffer 100' to Very High &amp; High Value wetland)</b>
Structure	SE	Prohibited	SE
Streets/Roads/ Access Ways	SE	Prohibited	SE
Pipelines/Powerlines/ Transmission lines	SE	Prohibited	SE
Fences, Footbridges,	SE	Prohibited	SE (see Section 401.6)

Catwalk & Docks	SE	Prohibited	N/A
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**401.6 Special Provisions.**

- A. The Wetlands Conservation District is an Overlay District. Where the provision of this Section conflicts with those of any underlying zoning district such as the Riverbank Protection District, the more restrictive standards shall apply.
- B. Septic Tanks and Leach Fields.
  - 1. No septic tank or leach field shall be constructed or enlarged to be within 75 feet of any wetland of low, medium-low or medium value, or to within 100 feet of any wetland of High or Very High Value.
  - 2. Previously constructed, non-conforming septic tanks or leach fields that fall within these limits shall be replaced either in-kind or in a way that is less non-conforming, subject to State and local approval.
- C. Timber Cutting.
  - 1. In areas within the Wetland Conservation District where forestry is a permitted use, timber harvesting for forest management and commercial agriculture shall leave a minimum 25-foot naturally vegetated buffer from the edge of a High or Very High Value wetland; the remainder of the associated activities and operations beyond the 25-foot buffer shall be in conformance with the most recent best management practices (see Appendix A) as cited in 401.4.A.
  - 2. Even in wetland and wetland buffer areas where forestry is otherwise permitted, the cutting of timber for the purpose of converting the use of the land to uses other than forestry or agriculture shall be prohibited unless all permits necessary for that change of use have been issued. Moreover, within a 12-month period no more than 50 percent of the basal area of trees shall be cut or otherwise felled, leaving a well distributed stand of healthy trees. In areas that coincide with the Riverbank Protection District, the latter's vegetation removal rules will apply.
- D. Driveways/Roadways/Access Ways/Parking Areas, Culvert Replacements, Minor Crossings.
  - 1. Pre-existing driveways, roadways, access ways or parking areas established at the time of passage and located within the buffer component of the Wetland Conservation District, shall be considered non-conforming and may be repaired or replaced.
  - 2. Pre-existing culverts established at the time of passage of this ordinance and located within the buffer component of the Wetland Conservation District shall be considered non-conforming, and may be replaced either in-kind or of a larger diameter and capacity as recommended by the State Department of Environmental Services Stream Rules Env-Wt Chapter 900, as amended.
  - 3. Pre-existing pipelines established at the time of passage and located within the buffer component of the Wetland Conservation District of this

ordinance shall be considered non-conforming, and may be replaced either in-kind or of a larger diameter and capacity.

4. Minor Crossings of the Wetland Conservation District, including but not limited to foot bridges, snowmobile bridges, temporary timber harvesting crossings, boardwalks for educational or recreational purposes, and other temporary or permanent crossings that do not significantly alter wetlands or their vegetated buffers, shall be allowed by simple notification to the Zoning Administrator.
- E. The expansion of Non-conforming Buildings and Structures, located within the Wetland Conservation District, is regulated under Article VII, Non-Conformities, of this Ordinance, except as follows:
1. The addition of an open deck or porch is permitted to a maximum of twelve (12) feet, including towards the wetland.
  2. The expansion of the non-conforming portions of existing buildings and structures located within the wetland buffer shall be allowed, provided the expansion does not encroach further towards the wetland and that expansions are less than twenty (20) percent of the existing building footprint.
  3. The vertical expansion of existing buildings within the wetland buffer is permissible within the Wetland Conservation District.
- All other required dimensional setbacks for the respective zoning district, in the absence of a variance or a special exception as the case may be, shall be met.
- F. No underground chemical or fuel storage tank(s) (excluding propane) of any size shall be constructed, enlarged or replaced underground within 200 feet of a wetland.

#### 401.7 Applications to Zoning Board of Adjustment.

- A. Appeals of Administrative Decisions: Appeals of decisions of the Building Inspector, Zoning Administrator, Planning Board or other administrative officials relative to the Wetlands Conservation District may be made to the Zoning Board of Adjustment as administrative appeals pursuant to RSA 674:33. If such an appeal is from a determination of the district boundary, the appellant, if owner of the land in question, shall submit a map produced by a certified wetland scientist depicting the wetlands boundary. After initial hearing, the Zoning Board of Adjustment may require additional mapping, if necessary, at the expense of the applicant.
- B. Environmental Impact Assessment: The Board may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this Section. For all projects involving fill or dredge in wetlands of High or Very High Value, an environmental impact statement shall be required. The cost of this assessment shall be borne by the applicant.
- C. Notice and Hearing Procedures: Shall comply with Article VIII, Section 802 Board Procedures.
- D. Interested Parties: The Lebanon Conservation Commission is hereby determined to be an interested party to any Zoning Board of Adjustment proceeding under

this section. Upon receipt of an application, the Zoning Board of Adjustment shall immediately forward a copy of the complete application to the Conservation Commission. The Conservation Commission shall receive notice of all proceedings of the Zoning Board of Adjustment, and the Zoning Board of Adjustment shall give due weight to all evidence submitted to it by the Conservation Commission.

## SECTION 402            FLOOD PLAIN DISTRICT.

### 402.1    Description of Flood Plain District.

The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Lebanon Flood Insurance Rate Maps (FIRM) and the Flood Boundary and Floodway Maps, dated June, 1980, and amended August 15, 1990. Said maps are on file with the City Clerk, Planning Board and City Engineer.

### 402.2    Flood Plain District Regulations.

Within the Flood Plain District, all requirements of the Flood Damage Prevention Ordinance of June 4, 1980, as amended, shall be complied with.

## SECTION 403            STEEP SLOPES DISTRICT.

### 403.1    Purpose.

The purpose of the Steep Slope District is to prevent development on slopes in excess of 25 percent. Development on such slopes causes soil erosion and stream sedimentation; unnecessary loss of vegetative ground cover and destruction of trees; on-site waste disposal problems; difficult street construction; and expensive street maintenance.

### 403.2    Description of Steep Slopes District.

The Steep Slope District includes all areas having slopes in excess of 25 percent that are located within the RL-3 District. The slope of the natural terrain shall be determinative of whether or not land is within the district. As a general guide, areas of slope in excess of 25 percent are delineated on the Steep Slopes Map prepared as part of the Lebanon Master Plan.

### 403.3    Permitted Uses.

No buildings, structures or parking lots shall be permitted in the Steep Slopes District. Otherwise, the following uses are permitted:

- A.    Wildlife refuges, conservation areas and nature trails.
- B.    Open space and outdoor recreation.

### 403.4    Special Exceptions.

- A.    Roads and driveways may be granted special exceptions to cross the Steep Slopes District subject to the following findings by the Board of Adjustment.
  - 1.    The lot cannot be reasonably used without such a crossing.
  - 2.    The design and construction of the crossing will not cause:

- a. Soil erosion; or
  - b. Stream sedimentation; or
  - c. Loss of excessive vegetative cover; or
  - d. Expensive public maintenance costs.
- 3. The crossing will not adversely scar a ridgeline or hillside that is a prominent visual amenity in the City.
- 4. All other requirements for special exceptions, as set for in Section 801.3 are met.
- B. Structures accessory to a use permitted by Section 403.3, such as trailside shelters.
- C. Commercial forest management and agriculture using best management practices in order to protect streams from drainage and to prevent sedimentation.

SECTION 404      RIDGELINE DISTRICT.    **(reserved)**

SECTION 405      SCENIC CORRIDORS DISTRICT.    **(reserved)**

SECTION 406      AQUIFER PROTECTION DISTRICT.    **(reserved)**

SECTION 407      AIRPORT PROTECTION DISTRICT.

Notwithstanding any other provision of this Ordinance, in order to provide for the safety of aircraft landing and taking off from Lebanon Municipal Airport, the following regulations shall apply:

407.1      Imaginary Surfaces for Objects Affecting Navigable Airspace.

- A. Height Limitations. No new structure shall be built, existing structure extended in height or tree allowed to grow that would penetrate the imaginary surfaces described below:
  - 1. Primary surface extends 200 feet beyond each end of the runways and is longitudinally centered on the runways with a width of 500 feet for Runway 7-25 and 1,000 feet for Runway 18-36.
  - 2. Approach surface to Runway 7 which is 500 feet wide at a point 200 feet from the end of the pavement and 3,500 feet wide at 10,000 feet from the end of the primary surface of the runway, an inclined plane of 34:1 slope.
  - 3. Approach surface to Runway 25 which is 500 feet wide at a point 200 feet from the end of the pavement and 3,500 feet wide at 10,000 feet from the end of the primary surface of the runway, an inclined plane of 34:1 slope.
  - 4. Approach surface to Runway 18 which is 1,000 feet wide at a point 200 feet from the end of the pavement and 4,000 feet wide at 10,000 feet from the end of the primary surface of the runway, an inclined plane of 50:1 slope, and for an additional 40,000 feet at which point is 16,000 feet wide, and inclined plan of 40:1 slope.
  - 5. Approach surface to Runway 36 which is 1,000 feet wide at a point 200 feet from the end of the pavement and 3,500 feet wide at 10,000 feet from

the end of the primary surface of the runway, an inclined plan of 34:1 slope.

6. Transitional surface which extends at an inclined plan of 7:1 slope from the sides of the primary surface and from the sides of the approach surfaces.
7. Horizontal surface which is a horizontal plane 150 feet above the established Airport elevation and the perimeter extends 10,000 feet from the center of each end of the primary surface of each runway.
8. Conical surface which is the surface extending outward and upward from the periphery of the horizontal surface at an inclined plane of 20:1 slope for a horizontal distance of 4,000 feet.

B. Exceptions.

1. The height limitations set forth in subsection A shall not apply to any structure that has either received approval from the Federal Aviation Administration to pierce the imaginary surface, or is otherwise permitted to do so by and in accordance with Part 77 Federal Aviation Regulations.
2. Nothing in subsection A shall limit the height of any off-airport structure or tree to less than 30 feet above the ground upon which it is located, subject to the limitations set forth in Section 407.3.

C. Zoning Permits. The Zoning Administrator shall consult with the Airport Manager prior to the issuance of a zoning permit for any structure located within the horizontal surfaces of the Airport described in subsection A and which does not qualify for an exception under subsection B.

407.2 References.

The above surfaces are indicated upon the current Airport Master Plan maintained by the Airport Manager and on file in his or her office. The surfaces are taken from Part 77 Federal Aviation Regulations and are based upon the ultimate development of the Airport with runways and primary surfaces as follow:

- A. Runway 7-25 paved 5,345' x 100' Primary surface 5,745' x 500'
- B. Runway 18-36 paved 5,800' x 100' Primary surface 6,200' x 1,000'

407.3 Use of Land Near Airport.

No use may be made of land within the horizontal surfaces of the Airport described in Section 407.1.A. in such manner as to create electrical interference with radio aids or communications between the Airport and aircraft; make it difficult for flyers to distinguish between Airport lights and other lights; result in glare in the eyes of flyers using the Airport; impair visibility in the vicinity of the Airport by the creation and discharge of smoke, steam, dust or other obstructions to visibility or otherwise endangering the landing, taking off or maneuvering of aircraft.

407.4 Requirements for Indication of Hazards.

Any variance granted to allow a greater height than permitted in Section 407.1 may require the owner of the property, at his or her own expense, to install, operate, and



maintain thereon such markers and lights as may be required by the FAA to indicate to flyers the presence of an Airport hazard.

## SECTION 408            HISTORIC DISTRICT.

### 408.1    Authority.

This section is enacted pursuant to RSA 674:46. The City of Lebanon Heritage Commission shall have the authority granted to it by RSA 674:44-a through d, et. seq., and this Ordinance.

### 408.2    Purposes.

The purpose of this Ordinance is to preserve the heritage and cultural resources of the City of Lebanon and, particularly, the City's structures and places of historic, architectural and community value in order to:

- A.    Establish and preserve districts in the City which reflect elements of its cultural, social, economic, political, community, and architectural history;
- B.    Conserve property values in such districts;
- C.    Foster civic beauty;
- D.    Strengthen the local economy; and,
- E.    Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the City.

### 408.3    Delineation of Historic Districts.

The areas and boundaries of the Historic Districts are shown on maps which are hereby designated as the Historic District Map of the City of Lebanon and made a part of this Ordinance and the Official Zoning Map of the City of Lebanon, together with all future amendments. The official map shall remain on file in the Office of the Zoning Administrator and with the City Clerk.

### 408.4    Certificate of Approval Required.

A Certificate of Approval shall be obtained from the Heritage Commission in the manner set forth herein prior to the commencement of any of the following activities within any Historic District:

- A.    The construction of any new building;
- B.    The addition to, alteration, or repair of any existing building which would require the issuance of a building permit pursuant to the provisions of the Lebanon Building Code, unless such addition, alteration, or repair does not, in any way, alter the exterior of such building;
- C.    The following activities, whether or not a building permit is required for such activities:
  - 1.    Roofing or re-roofing if the roof plane is changed;

2. Siding, including new and re-siding, if it involves a change of design or materials;
3. Replacement of doors and windows if it involves changes in the size, location, or number of openings in the exterior or facade of a building.
4. Replacement or enclosure of porches, decks, and patios if it involves a change in size, location, design, and/or materials;
5. Replacement of exterior stairs, landings, and overhangs if it involves a change in size, location, design, and/or materials;
6. Demolition or moving of a building or accessory building.

No building permit (when applicable) shall be issued prior to the receipt of a Certificate of Approval for the above-described activities.

#### 408.5 Activities Not Requiring Certificates of Approval.

The following activities are exempt from review by the Heritage Commission, and no Certificate of Approval shall be required:

- A. Any repairs, alterations, or improvements that do not require a building permit pursuant to the Lebanon Building Code with the exception of the activities described in Section 408.4 herein;
- B. Any repairs, alteration, or improvements to the interior of the building;
- C. The re-roofing of a building, provided that the roof plane remains the same;
- D. Painting or re-painting of the interior or exterior of any building; and,
- E. Landscaping or fencing.

#### 408.6 Criteria For Review.

In determining whether or not to grant a Certificate of Approval, the Heritage Commission shall keep in mind the purpose set forth in Section 408.2 herein and shall consider, among other appropriate factors, the following:

- A. The historical or architectural value of a building and its setting;
- B. In connection with additions, repair or restoration of any existing building, the compatibility of the exterior design, arrangement, texture, and materials proposed to be used in relationship to this existing building, its setting, and the Historic District as a whole; and,
- C. The size, scale, and design of proposed construction in relationship to the existing surroundings, including consideration of such factors as a building's overall height, width, street frontage, number of stories, type of roofs, facade openings (windows and doors), and architectural details.

When the Heritage Commission determines that it is necessary or advisable in order to preserve or protect historically and/or architecturally significant buildings, the Commission may require preservation and/or accurate reproduction of exterior architectural features. Preservation and/or reproduction measures shall be completed

pursuant to the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings."

Applications for Certificates of Approval may be denied if such denial is required to prevent construction or development which would conflict with the stated purposes of Section 408.2 herein.

#### 408.7 Application Procedures.

The following procedures and any rules of procedure duly adopted by the Heritage Commission shall be followed in processing applications for Certificates of Approval:

- A. Written application for Certificates of Approval shall be made no later than 12:00 noon of the 15th calendar day prior to a regularly scheduled meeting of the Heritage Commission (to include the meeting date of the Commission) on forms provided by the Zoning Administrator, and the applicant shall pay an application fee as adopted by the City Council. The application may be filed simultaneously with any other application or request for City land use permits, and the issuance of a Certificate of Approval shall not be a precondition to the issuance of any other City land use permit with the exception of a building permit, when applicable.
- B. There shall be a public hearing on all applications for Certificates of Approval. The applicant and all abutters shall receive a notice of the public hearing by certified mail, and a public notice of the hearing shall be posted in at least two public places and shall be published in a newspaper of general circulation in the City of Lebanon. Said notice shall be given not less than five days, nor more than 30 days, before the date of the hearing.
- C. At its meeting, the Commission shall review the application for completeness as specified in Section 408.8 herein. If the application is determined to be complete, then the Commission shall vote to accept the application and commence with the public hearing. If the application is not complete, then consideration of the application shall be suspended until it is complete.
- D. The Commission shall review the application using the criteria set forth in Section 408.6 herein, and then shall act to approve, approve with conditions, or disapprove the application. In reviewing the application, the Commission may request reports and recommendations regarding the feasibility of the applicant's proposal from the Planning Board, Fire Chief, Building Inspector, Health Officer, and other administrative officials who may possess information concerning the impact of the proposal on the Historic District. The Commission may also seek advice from professional, educational, cultural, or other groups or persons as may be deemed necessary for the determination of a reasonable decision.
- E. Within 45 calendar days from the filing of the application, unless the applicant agrees, in writing, to a longer review period, the Commission shall notify the applicant, in writing, of its action by means of the Certificate of Approval or Notice of Disapproval sent by certified mail. In case of disapproval, the Commission shall clearly set forth in a Notice of Disapproval the reasons for its action, with specific reference to standards contained in this Section.
- F. Simultaneously with notifying the applicant, the Commission shall file a copy of the Certificate of Approval with the Zoning Administrator and the Building Inspector. The Building Inspector shall not issue a building permit for any activity in an Historic District requiring a Certificate of Approval until receipt of said

Certificate. In the case of a disapproval, the Notice of Disapproval shall be binding on the Building Inspector or other duly delegated authority and no permit shall be issued.

- G. Failure of the Commission to file said Certificate within the specified period of time shall constitute approval by the Commission.

#### 408.8 Submittal Requirements.

All applications for a Certificate of Approval shall contain a written description of the work or activity for which approval is requested, together with plan and elevation drawings to scale and, where appropriate, photographs which, together, shall be sufficient to reasonably inform the Heritage Commission as to the type or nature of the activity applied for, the location of the activity, and the effect or impact on the exterior of the building(s) involved.

#### 408.9 Removal or Demolition of Buildings.

No building shall be demolished or moved off its lot within any Historic District until at least one publication of notice of such demolition or removal has been published by the owner in a newspaper of general circulation in the area in which the building and lot are located, such notice to be published not less than 30 days prior to the date of such demolition or removal.

The purpose of this provision is to further the purposes of Section 408.2 and to afford a person or organization the opportunity to acquire, or to arrange for the preservation of, such building.

Notwithstanding the above, upon application to the City Building Inspector, any building substantially damaged as a result of fire or other disaster or constituting a public safety hazard shall be exempt from the provisions of this section.

#### 408.10 Appeal.

Any person aggrieved by a decision of the Heritage Commission shall have the right to appeal said decision to the Zoning Board of Adjustment as provided by RSA 677:17. Such appeals shall be filed with the Zoning Board of Adjustment within 20 days of the filing of the Certificate of Approval or Notice of Disapproval with the Building Inspector.

#### 408.11 Enforcement.

The provisions of this Section 408 shall be enforced as provided by State law and pursuant to Section 903 of this Ordinance.

### SECTION 409 LANDFILL RECLAMATION DISTRICT

#### 409.1 Purpose.

The purpose of the Landfill Reclamation District is to encourage the reclamation and alternative secondary uses of municipally-owned land that has been used for disposing waste. Land so used for waste disposal will principally remain, indefinitely, as a waste disposal site. For instance, even though a sanitary landfill may be capped, there will be continual monitoring requirements that can last many years. At the same time, as technological advances are made, additional secondary uses can be made of a former landfill site that are compatible with monitoring objectives. The overlay district is intended to permit secondary uses of waste disposal land area that has been closed or capped,

subject to approval by the City and by the New Hampshire Department of Environmental Services.

409.2 Description of Landfill Reclamation District.

The Landfill Reclamation District includes all municipally-owned land within the Heavy Industrial (IND-H) District that is designated as a waste disposal area.

409.3 Permitted Uses.

The following uses are permitted in a closed or capped waste disposal area:

- A. Outdoor recreational facility.
- B. Indoor recreational facility.
- C. Accessory uses to the secondary permitted recreational use, such as control or maintenance buildings and structures to allow food sales. More than one accessory use is permitted if all such accessory uses remain incidental and subordinate to the principal recreational use.
- D. Renewable energy system.
- E. Renewable generation facility as defined in NH RSA 72:73.

409.4 Special Requirements.

- A. Prior to the issuance of a building permit, all approvals and permits from the New Hampshire Department of Environmental Services and any other applicable regulatory agency or body, including the Lebanon Planning Board, must be obtained for the proposed secondary use and for its site plans.

SECTION 410 RIVERBANK PROTECTION DISTRICT.

410.1 Purposes.

The purpose of the Riverbank Protection District is to protect the health, safety, and general welfare of the people of the City of Lebanon by protecting its water quality and natural resources and by providing reasonable regulations governing the development and use of land adjacent to its rivers, streams, and associated wetlands. More specifically, this District is intended to serve the following purposes:

- A. Protect and maintain existing and potential water supplies for use by the general public;
- B. Safeguard the ecological integrity of Lebanon's streams and rivers, including but not limited to:
  - (1) minimizing erosion;
  - (2) preventing siltation and turbidity;
  - (3) stabilizing soils;
  - (4) preventing excess nutrients and chemical pollution;
  - (5) maintaining natural water temperatures;
  - (6) maintaining a healthy tree canopy and understory;
  - (7) preserving fish, bird and wildlife habitat; and
  - (8) respecting the overall natural conditions of the Riverbank.

- C. Prevent pollution of surface water and groundwater associated with the stream and river systems;
- D. Prevent destruction or significant alteration of the natural flow of watercourses;
- E. Prevent unnecessary or excessive expenditures of municipal funds which would arise as a result of improper development of land within the Riverbank Protection District;
- F. Maintain water quantity and instream flow during low flow periods;
- G. Protect the recreational values associated with rivers, streams, and their riparian areas;
- H. Preserve the visual and scenic richness of Lebanon by protecting the aesthetic features associated with its rivers, streams, and riparian areas.
- I. Prevent the destruction of or significant changes to those riparian lands which provide flood protection and protect persons and property against the hazards of flood inundations, by assuring the continuation of the natural flow patterns of streams and other watercourses.

#### 410.2 Authority.

This section of the Zoning Ordinance is adopted pursuant to the authority granted by RSA 483-B:8, Shoreland Water Quality Protection Act: Municipal Authority; RSA 674:16, Grant of Power to Zone; and RSA 674:21, I (J), Innovative Land Use Controls: Environmental Characteristics Zoning.

#### 410.3 Description of the Riverbank Protection District.

The Riverbank Protection District includes all areas in the City that are located within an area beginning at the ordinary high water mark of the following designated public rivers, and streams and lakes:

- (1) Connecticut River
- (2) Mascoma River
- (3) Stoney Brook
- (4) Blodgett Brook
- (5) Hardy Hill Brook
- (6) Great Brook
- (7) Unnamed Brook flowing southeast from Great Brook Road to Great Brook
- (8) Unnamed Brook flowing east along town boundary into Great Brook
- (9) Bloods (True's) Brook
- (10) Martin Brook
- (11) Stockwell Brook
- (12) Hibbard Brook
- (13) Unnamed Brook flowing out of "Wetland 31"
- (14) Unnamed Brook flowing west from Boston Lot Lake to Connecticut River
- (15) Unnamed Brook flowing northwest into Mink Brook
- (16) Mascoma Lake

as identified by the United States Geological Survey, and depicted on the official Lebanon Riverbank Protection District Overlay Map, and extending inland to fifty (50) horizontal feet, with septic waste systems and fuel storage restrictions extending to one hundred and twenty-five (125) horizontal feet, as set forth in 410.7.F and 410.7.H.

#### 410.4 Boundary Disputes

When questions exist as to the location of the ordinary high water mark, the determination shall be made by the Zoning Administrator, subject to appeal under Section 801.1 of this Ordinance. The City may retain an independent water resource professional to assist with the determination and require the applicant to pay the cost thereof.

#### 410.5 Permitted Uses.

The following uses are permissible within the Riverbank Protection District, provided such use does not involve a structure (except as expressly referenced) and does not alter the surface configuration of the land by the addition of fill, by excavation or by dredging:

- A. Propane Tanks – (above ground only, properly secured against flooding and fast-moving water).
- B. Home heating fuel tanks contained within the principal structure.
- C. Wells for water supplies.
- D. Wildlife habitat development and management.
- E. Low-impact recreational uses not involving structures, such as pedestrian trails.
- F. Open space as permitted by the City of Lebanon Subdivision Regulations and other sections of this Ordinance.
- G. Conservation.
- H. Wetland enhancement or restoration.
- I. Minor Crossings for footbridges, snowmobile bridges, temporary timber harvesting crossings, and boardwalks for educational or recreational purposes that do not significantly alter the stream, its banks, or vegetated buffers, shall be allowed by simple notification to the Zoning Administrator. All work shall be performed as to minimize any detrimental impacts to the river or stream, its banks and adjacent vegetated buffers by following all applicable Best Management Practices listed in Appendix A of this Ordinance.
- J. Fences, as regulated by Section 201.4 of this Ordinance, are permitted to be constructed within the Riverbank Protection District, provided that mechanical equipment (e.g. wheeled or tracked vehicles) is not utilized during installation. All work shall be performed as to minimize any detrimental impacts to the river or stream, its banks and adjacent vegetated buffers.
- K. The expansion of Non-conforming Buildings and Structures, located within the Riverbank Protection District, is regulated under Article VII, Non-Conformities, of this Ordinance, except as follows:
  - 1. The addition of an open deck or porch is permitted to a maximum of twelve (12) feet, including towards the ordinary high water mark.

2. The vertical expansion of existing buildings is permissible within the Riverbank Protection District.

All other required dimensional setbacks for the respective zoning district, in the absence of a variance or a special exception as the case may be, shall be met.

L. Vegetation Removal, limited to the following:

1. Within a walking path no greater than six (6) feet in width and performed in compliance with Best Management Practices for trails (see Appendix A – Definitions)
2. Within the Curtilage (as defined by this Ordinance) of a pre-existing building constructed prior to the adoption of the Riverbank Protection District
3. Within the area affected by the replacement of an existing septic system, subject to Section 410.5 below;
4. The removal of alien, noxious or invasive species,
5. Normal trimming, pruning, and thinning of branches to the extent necessary to maintain the health of the planted area, maintain clearances, and provide views is permitted provided such activity does not endanger the health of the plants being trimmed.
6. Creating Views: The limbing of branches for the purpose of providing views is limited to the bottom half of trees and saplings to help ensure the health of the tree or sapling. Cutting those portions of the existing ground cover that have grown over three feet in height for the purpose of providing views is permissible.
7. Removal of Tree, Sapling, & Shrub (greater than three (3) feet): Live trees and saplings that have grown over 3 feet in height may be removed provided that the following criteria are met:

Starting from the most northerly or easterly property boundary, and working along the shoreline, divide the waterfront buffer into 50 feet x 50 feet grid segments. Within each grid segment a minimum combined tree, sapling, shrub and groundcover point score of at least 50 points must be maintained. If for any reason there is insufficient area for a full segment, the number of points required to be maintained is proportional to the requirement of a full segment. For instance, a segment that measures 25 feet x 50 feet, would only need to maintain at least 25 points worth of trees, saplings, shrubs and ground cover.

To determine if trees and saplings can be removed, the owner must first verify that at least the minimum tree, sapling, shrub and groundcover point score will remain within the affected grid segment. To accomplish this, at a height of 4 ½ feet above the ground, on the uphill side, measure the tree and sapling diameter within each grid segment and score in accordance with the table below. If nursery stock is present, measure the tree diameter with a caliper at a height consistent with established nursery industry standards. Determine the shrub and ground cover score in accordance with the table below. Once the tree, sapling, shrub and groundcover score reaches the minimum score required to remain within a grid segment, then trees and saplings beyond the minimum score may be removed from the grid segment. If the score within a grid segment is less than



the required minimum score, then trees and saplings may not be removed. The stumps of felled trees and saplings may be ground flush to ground surface but the stump and root systems must remain in the ground unless the stump area is replanted with new trees or other woody vegetation. Care must be taken to avoid removal of surrounding ground cover.

**Calculating the tree, sapling, shrub and ground cover score within a 50 foot by 50 foot segment:**

Determine each tree and sapling diameter 4.5 feet above the ground, uphill side. If nursery stock is present, measure the trees with a caliper at a height consistent with established nursery industry standards

Diameter of Tree or Sapling	Score
1 to 3 inches	1pt
Greater than 3 to 6 inches	5 pts
Greater than 6 to 12 inches	10 pts
Greater than 12 inches to 24 inches	15 pts
Greater than 24 inches	25 pts

Vegetation removal beyond the 50' buffer line is not regulated by this Overlay District but may be regulated by State regulations, including but not limited to basal area forestry laws.

- M. Any use otherwise permitted at that site by the Zoning Ordinance and State and Federal law, provided such use does not involve a structure (except as expressly referenced) and does not alter the surface configuration of the land by the addition of fill, by excavation or by dredging.

**410.6 Special Exceptions. for Driveways, Roadways, Parking Areas, and Other Access Ways; Pipelines and Other Transmission Lines.**

Upon application to the Board of Adjustment, a special exception may be requested to permit driveways, roadways, parking areas and other access ways; pipelines, powerlines and other transmission lines within the Riverbank Protection District, provided that all of the following conditions are found to exist, in lieu of the findings required by Section 801.3:

- A. The use for which the exception is sought, after consideration of all alternatives and taking into consideration the particular characteristics, setting and environment of the property, cannot be carried out on a portion or portions of the lot which are outside the Riverbank Protection District without a special exception under this section;
- B. The design and construction of the proposed use is consistent with the purpose and intent of Section 410.1, A. through I. of this Ordinance, and with all applicable State of New Hampshire regulations including applicable Best Management Practices as referenced in Appendix A of this Ordinance, and adequate conservation measures are taken to mitigate the detrimental effects of the proposed use upon the river or stream, its banks, and adjacent vegetated buffers.
- C. The proposed construction and design shall include provisions for restoration of the site as closely as possible to its original grade and conditions; and

- D. The proposed use will not create a hazard to individual or public health, safety and welfare due to the impact upon the Riverbank Protection District

**410.7 Special Provisions.**

- A. The Riverbank Protection District is an Overlay District. Where the provisions of this Section conflict with those of any underlying zoning district such as the Wetland Conservation District, the more restrictive standards shall apply.
- B. Existing Cleared Areas: Cleared areas in existence at the time of the Riverbank Overlay adoption, such as but not limited to existing lawns, are not required to be replanted or restored. Owners may continue to maintain these areas as they have in the past; however no such cleared areas shall be enlarged.
- C. Driveways, roadways, parking areas, and other access ways, in existence prior to the adoption of the Riverbank Protection District, shall be considered legal non-conforming uses under Article VII, Non-Conformities, of this Ordinance. The repair or replacement, in-kind, of such areas is allowed provided the work is performed so as to minimize any detrimental impacts to the river or stream, its banks and adjacent vegetated buffers by following all applicable Best Management Practices in Appendix A of this Ordinance.
- D. Culverts and pipelines, in existence prior to the adoption of the Riverbank Protection District, shall be considered legal non-conforming uses under Article VII, Non-Conformities, of this Ordinance, and may be replaced or repaired either in-kind or of a larger diameter and capacity as recommended by the State of NH Department of Environmental Services Stream Rules Env-Wt Chapter 900, as amended. All work shall be performed so as minimize any detrimental impacts to the river or stream, its banks and adjacent vegetated buffers by following all applicable Best Management Practices in Appendix A of this Ordinance.
- E. There shall be no use of pesticides/herbicides/fertilizers within fifty (50) feet of the ordinary high water mark.
- F. No chemical or fuel storage tanks having a storage capacity of more than 10 gallons shall be permitted within one hundred and twenty five (125) horizontal feet of the ordinary high water mark, with the exception of propane tanks, and home heating fuel tanks located within an existing principal structure.
- G. The use, storage, or handling of any other Regulated Substances as defined by the New Hampshire Department of Environmental Services in Chapter Env-Wq 400 Groundwater Protection, shall occur in compliance with Best Management Practices for Groundwater Protection (see Appendix A – Definitions)
- H. Septic Tanks and Leach Fields:
  - 1. Within all areas extending to 125 horizontal feet from the ordinary high water mark, new septic tanks and leach fields are prohibited.
  - 2. Replacement septic tanks and leach fields: all replacement septic tanks and leach fields, in addition to requiring approval by the N.H. DES, shall be set back from the ordinary high water mark of designated rivers and streams, based on the dominant characteristics of the receiving soil next to a designated river or stream as classified by the USDA Soil Conservation drainage classes, as follows:

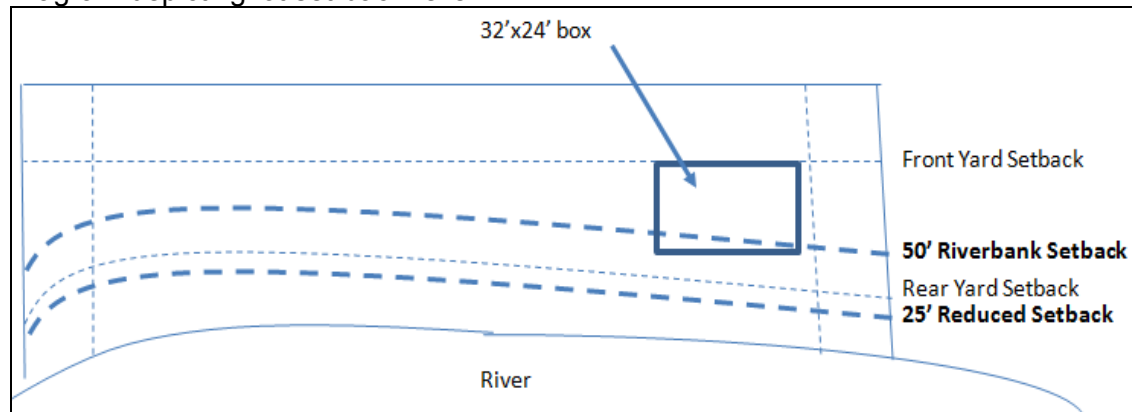
- a. As close to one hundred and twenty five (125) feet from the ordinary high water mark as technically feasible, where the receiving soil down-gradient of the leaching portions of the septic system is a porous sand and gravel material with a percolation rate greater than or equal to 2 minutes per inch (highly permeable);
- b. At least one hundred (100) feet from the ordinary high water mark for soils with restrictive layers within eighteen (18) inches of the natural soil surface (impervious); and
- c. At least seventy-five (75) feet from the ordinary high water mark for all other soil conditions, unless approved by the State of New Hampshire.

I. Existing Legal Lot of Record:

A vacant legal lot-of-record, that existed prior to the adoption of the Riverbank Protection District, but upon which the construction of a principal building is inhibited only as a result of the adoption of the fifty (50) foot setback provision, shall be reduced to not less than twenty-five (25) feet for a principal building only. To demonstrate this inhibition, it must be shown that a land area of thirty-two (32) feet by twenty-four (24) feet is precluded as a result of the addition of this riverbank setback provision alone (see diagram). This determination is made by the Zoning Administrator, and is subject to appeal under Section 801.1, Administrative Appeals, of this Ordinance.

All other required dimensional setbacks for the respective zoning district, in the absence of a variance or a special exception, as the case may be, shall be met.

Diagram depicting lot set-back relief:



**410.8 Applications to Board of Adjustment.**

- A. In any appeal to the Board of Adjustment from a determination of the district boundary under this section, the Board of Adjustment may require the owner of the land in question, or such owner's representative, to submit a map produced by a water resource professional depicting the ordinary High Water Mark, and any additional information the Board reasonably requires in order to reach a decision.

- B. Interested Parties: The Lebanon Conservation Commission is hereby determined to be an interested party to any Board of Adjustment proceeding under this section. Upon receipt of an application, the Board of Adjustment shall immediately forward a copy of the complete application to the Conservation Commission. The Conservation Commission shall receive notice of all proceedings of the Board of Adjustment, and the Board of Adjustment shall give due weight to all evidence submitted to it by the Conservation Commission.

## ARTICLE V

### SUBDIVISIONS AND PLANNED DEVELOPMENTS

#### SECTION 500

#### GENERAL.

- A. Traditional subdivisions are permitted in all zoning districts, except when a Planned Unit Residential Development (PURD) is required in the R-3, RL-1, RL-2, and RL-3 Districts per Section 501.2.B.1.
- B. Planned developments are those uses of land which normally involve more than one building and/or more than one parcel. Careful preparation of a comprehensive plan for the entire land development is required, and the review process must be particularly thorough and deliberate.

Planned developments shall be permitted in accordance with the following table:

District	PURD per Section 501.2	PRec per Section 501.3	Industrial PUD per Section 501.4	Commercial PUD per Section 501.4	Manufactured Home Park per Section 503 and Manufactured Home Subdivision per Section 504	Recreational Camping Parks per Section 505	Medical Center Complexes per Section 506	Planned Business Park per Section 508
IND-L			P					P
IND-RA			P					P
IND-H								
GC				P				
CB				P				
NC	P				P	SE		
R-1	P				P			
R-2	P							
R-3	P*							
R-O								
R-O-1								
PB						SE		
RL-1	P*	P			P	SE		
RL-2	P*	P			P	SE		
RL-3	P*	P						
MC				P			P	

P = Permitted

SE = Special Exception required

\*Subject to Section 501.2.B.1.

#### SECTION 501

#### PLANNED UNIT DEVELOPMENT (PUD).

- 501.1 Section 501.1 shall apply to all Planned Unit Developments (PUDs) which include Planned Unit Residential Developments (PURDs) per Section 501.2, Planned Unit Recreational Developments (PRecs) per Section 501.3, Commercial PUDs per Section 501.4, and Industrial PUDs per Section 501.4.
  - A. Purpose. PUDs should occur only after the characteristics of a property are studied and described, in order to best ensure that impacts on natural resources are minimized, through a process of building site selection in areas of lowest natural resource value. Land planning is not an exercise in geometry, but a rational process of site assessment and intelligent design.

- B. Required Approvals. All PUDs shall obtain a conditional use permit (CUP) from the Planning Board. A PUD shall also obtain Site Plan and/or Subdivision approval from the Planning Board, as applicable.
- C. Staff Review. As a preliminary step, the applicant is encouraged to meet with Planning Department Staff to review the applicants' plans for the proposed PUD in light of the requirements of Section 501. This recommended meeting will also give staff an opportunity to explain and answer questions with respect to the approval process and the applicable regulations of the Zoning Ordinance, Subdivision Regulations, and Site Plan Review Regulations.
- D. Conceptual Review. Prior to submitting a formal application for CUP approval, applicants are strongly encouraged to request a conceptual review with the Planning Board pursuant to Section 4.3 of the Site Plan Review Regulations. For purposes of this conceptual review, the applicant should have a draft plan prepared in accordance with the steps set forth in Section 501.1.E.1 below.
- E. Application Requirements. An application for a CUP shall include:
1. Subdivision and/or Site Plan. A subdivision and/or site plan, as applicable depending on the nature of the proposed PUD, prepared in accordance with all applicable standards contained within the Subdivision Regulations and/or Site Plan Review Regulations. In addition, the plan shall be prepared in accordance with the following four steps:
    - a. Delineation of Site Resources and Required Open Space:
      - i. Show the location of all environmentally sensitive areas of high resource value which shall include:
        - floodplains as defined in Section 402.1;
        - wetlands and buffers as defined in Section 401.2;
        - perennial stream courses and adjacent buffers as defined in Section 410.3;
        - slopes in excess of 25%;
        - Significant Ecological Areas (SEAs) and Co-Occurrence areas as identified in *Natural Lebanon* the 2010 natural resources inventory prepared for the City of Lebanon, available on the City of Lebanon website;
        - vernal pools;
        - wildlife corridors; and
        - species or habitat of significance known or found to occur on or in close proximity to the subject property.
      - ii. Indicate areas of moderate resource value which shall include:
        - areas with agricultural soils of national and statewide significance as defined by the Grafton County Natural Resources and Conservation Service;
        - aquifers; intermittent streams; and
        - historic and cultural structures or features including stone walls and cellar holes.

Areas of high resource value and areas of moderate resource value as defined above are collectively referred to herein as "Site Resources".

*Note: the Planning Department can serve as a resource in providing the aforementioned natural resource information directly or directing as to*

*where it may be obtained.*

- iii. Propose a prioritization of the Site Resources in terms of their highest to least suitability for inclusion in the Open Space for the proposed development. The proposed prioritization should reflect the value of each Site Resource relative to one another. This determination may be refined in consultation with the Planning Board during conceptual review and/or as part of the Board's review of the CUP application.
- iv. Identify and delineate between proposed Open Space area(s) as defined in Section 501.1.F below and the area(s) suitable for development taking into account:
  - the location of the Site Resources;
  - the tract's context in relation to natural, historic, and cultural areas on adjoining and nearby properties;
  - the minimum percentage and acreage of required Open Space areas; and
  - the Open Space public benefit criteria set forth in Section 501.1.J.1.a.ii below.

b. **Location of Building Sites:**

Potential building sites (e.g. building footprints or building envelopes) shall be tentatively located, using the proposed Open Space/development areas as a base map. Accessory buildings and building setback lines shall also be indicated. Building sites shall be located with careful consideration given to:

- Relevant property data such as topography and soils;
- Potential impacts, both positive and negative on the Site Resources. Measures to mitigate adverse impacts on the Site Resources shall be provided;
- Providing attractive views and visual settings for residences to the maximum extent practicable; and
- Providing adequate solar orientation to the maximum extent practicable.

c. **Alignment of Roads, Driveways and Trails:**

A road and driveway plan shall be designed to provide vehicular access to each building, complying with the standards in the Subdivision Regulations and bearing a logical relationship to topographic conditions. Impacts of the road plan on proposed Open Space areas and areas and the Site Resources shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding 15%. Road connections shall be required to maximum extent practicable in order to minimize the number of new cul-de-sacs and to facilitate access to and from homes in different parts of the tract and adjoining lots.

d. **Drawing in the Lot Lines:**

When Steps 1 through 3 are completed, lines shall be drawn to delineate the lots for development and the Open Space lot(s).

- 2. **Impact Statement.** An impact statement which clearly sets forth the impact of the proposal. The impact statement shall include:

- a. Statement of impact of the proposed development on natural resources and environmental quality including but not limited to water quality, air quality, wetlands, soil erosion and agricultural lands and a statement of pollution control and environmental impact mitigation measures.
- b. Statement of impact of the proposed development on abutters.
- c. Statement of sufficiency of proposed parking for the use intended.
- d. Statement of impact on roads, streets and highways and on pedestrian and vehicular traffic.
- e. Statement of sufficiency of utility systems for the provisions of water service, fire protection, sewer service, and storm drainage.
- f. Statement of suitability of the proposed drainage system and effect on abutters.
- g. Statement of noise control methods and procedures.
- h. Statement of effect on the public school system.
- i. Statement of effect on the municipal solid waste disposal facility.
- j. Fiscal impact statement which categorizes and analyzes the impact of the PUD on municipal, school and county revenues and expenditures.
- k. Statement of impact on police and fire protection and public safety.

The Planning Board may require the applicant to pay for an independent consultant(s) retained by the Board for the purposes of reviewing the verifying the conclusions of the impact statement. The Planning Board shall inform an applicant of the cost of any such consultant services and shall obtain an applicant's commitment to pay for such services, prior to the City incurring any obligations to pay for such services.

F. Open Space.

1. Definition. Open Space is the land used to offset increased density in the developed area of the property, to protect natural resources, and to provide recreation opportunities to residents of the development and the general benefit of the community at large.
2. Design. Open Space areas will be identified on the proposed plan applying the four step process set forth in Section 501.1.E.1 above, and shall be reviewed by the Planning Board as part of the application process. The Open Space shall be arranged to meet as many of the Open Space public benefit criteria, set forth in Section 501.1.J.1.a.ii below, as possible.
3. Uses. At the discretion of the Planning Board, Open Space may include, trails, agriculture, the required perimeter buffer, recreation (both active and passive), stormwater management design features, wells, shared septic system(s), centralized sewer systems, and underground utilities ,so long as such features do not adversely impact the integrity of the Site Resources. Streets, parking areas, residential or non-residential structures are not permitted.
4. Minimum Required Open Space.
  - a. PURD. The minimum amount of Open Space in a PURD shall be 50% of the property utilized for the PURD within the RL1, RL2, RL3, and R3 districts; and 30% within the NC, R1 and R2 districts.



- b. PRec. See Section 501.3 for requirements.
  - c. Commercial or Industrial PUD. At least ten (10) percent of the property utilized for a Commercial or Industrial PUD shall be preserved as Open Space. None of the curtilage of a principal building shall be used to meet the 10 percent criteria.
5. Ownership of Open Space. The Open Space or any portion of it shall be held, managed, and maintained by the developer until the Open Space is owned in one or more of the following ways:
- a. In common, by an owner's association for the control and maintenance of the Open Space, established by the applicant for the benefit and enjoyment of the residents and/or users of the development.
  - b. By the City of Lebanon which may at any time accept dedication of any Open Space for perpetual public use and maintenance if accepted by the City Council.
  - c. By a qualified land trust organization or other suitable private non-profit organization registered in the State of New Hampshire which shall ensure that the Open Space will be held in perpetuity as Open Space.
  - d. By an individual, conditional upon the Open Space being protected in perpetuity by a conservation easement to be held by a registered New Hampshire Land Trust organization.
  - e. Other ownership structure deemed by the City Attorney to be legally adequate to carry out the intent of Section 501 and the decision of the Planning Board.

The Planning Board may impose reasonable conditions with respect to when ownership shall be transferred from the developer in accordance with the above.

No portion of the Open Space land shall be conveyed in a manner which would result in non-compliance with this section.

6. Protection of Open Space. Adequate provisions shall be made to assure that the Open Space remains undeveloped and that any environmentally sensitive Site Resources identified by the Planning Board are protected and preserved. In addition to the protection afforded by the requirements of the CUP approval and applicable state statutes, the Planning Board may require one or more of the following:
- a. Granting development rights to the City, the Conservation Commission or other similar entity.
  - b. Deeding of the land to an owners' association or similar entity.
  - c. Encumbrance of a conservation easement that protects the land in perpetuity, which will be held by either a Conservation Trust

organization registered in the State of New Hampshire, or by the City of Lebanon.

7. Additional Requirements.

- a. All agreements, deed restrictions, easements, organizational provisions for an owners' association, and any other method of ownership, management, and protection of the Open Space shall be approved by the Planning Board, subject to review by the City Attorney. Said documentation shall be recorded at the Grafton County Registry of Deeds and a copy of the recorded documents shall be placed on file with the Planning Department.
- b. If lot lines are not required and are not proposed, the application shall set forth in detail how the Open Space is to be physically delineated and distinguished from other areas of the development. In all cases the boundaries of all Open Space areas shall be clearly marked on the plans.

G. Design Guidelines. To the maximum extent practicable, as determined by the Planning Board, the development shall adhere to the following design requirements:

1. The PUD shall be integrated into the surrounding neighborhood in such a way that the overall visual qualities between existing land use and the PUD is complementary.
2. The scale and size of buildings shall be related to and shall harmonize with existing buildings in the immediate vicinity of the PUD property.
3. The design of the PUD shall be directed toward establishing a sense of place, such as providing inward oriented placement of buildings, streets, and recreational facilities.
4. Adverse visual impact to ridgelines shall be minimized.
5. A convenient system of paths designed to provide access to and between all buildings, parking areas, recreation facilities, Open Space and adjacent streets.
6. Each dwelling unit shall have reasonable access to the Open Space provided, but need not front directly on such land.
7. Bicycle use shall be accommodated on all streets within the development. Covered bicycle storage shall be provided for all multi-family structures.
8. Multi-family buildings are unusual in rural landscapes. For this reason, the design of multi-family buildings visible from existing streets must be one which is harmoniously integrated with the surrounding landscape.
9. Each dwelling unit shall have reasonable access to the Open Space, but need not front directly on such land.
10. Streets shall be designed for consistency with overall City plans for vehicular circulation improvements, if such plans exist.

H. Dimensional Requirements.

1. Height. All buildings in a PUD shall comply with the height regulations of the applicable zoning district on which the building is being considered.
2. Special Setbacks. No building or structure shall be located closer than 50 feet to the side and rear lines of the PUD property. Front yard setbacks shall be dictated by the underlying zoning district. Stormwater management design features and septic systems may be located in these setbacks at the discretion of the Planning Board, considering impacts on any vegetative screen required to minimize impact to adjacent existing properties.

Whenever the PUD abuts a residential lot less than 40,000 square feet in area this setback shall be increased to 75 feet.

Side and rear setbacks for an accessory structure or accessory building that meets the requirements of Section 201.8 shall be as set forth in Section 201.8, except that in no case shall such structure or building be located closer than 50 feet to the side and rear lines of the PUD property.

3. Lots. For developments proposed to be in a condominium or other form of ownership which does not involve the creation of individual lot lines, the applicant shall nonetheless provide a layout of hypothetical lot lines for regulatory purposes only, to which the requirements of this Ordinance pertaining to lots may be applied. The lot size, width, depth and yard requirements of the applicable zoning district shall apply but may be modified by the Planning Board, provided the Board finds: (1) that such reductions do not result in overcrowding of the land; (2) that the layout pattern is orderly and harmonious; and (3) that the reductions are appropriate to the PUD proposal. In all cases the boundaries of all Open Space areas shall be clearly designated on the final plans, consistent with the ownership requirements of Subsection F of this section.

- I. Water and Sewer. For PURDs and PRecs, the Planning Board may require that the development connect to municipal water and sewer systems. Commercial or Industrial PUDs shall be connected to municipal water and sewer systems.

J. Approval of CUP Application.

1. A conditional use permit shall be issued only if the Planning Board determines that:
  - a. The subdivision and/or site plan prepared pursuant to Section 501.1.D.1 above meets the purpose statement set forth in Section 501.1.A above and the following standards:
    - i. The Planning Board must find that, in consideration of the Site Resources, the portions of the property most suitable for Open Space preservation and those portions most appropriate for development have been designated on the plans for those purposes.
    - ii. Public Benefit of Open Space. The Planning Board must determine that the layout of the designated Open Space area provides the greatest feasible public benefit which is

compatible with the applicant's permissible development goals. The Board shall not approve such layout if it finds that there is a feasible alternative layout which would yield a significantly improved Open Space public benefit while still fulfilling the applicant's otherwise permissible development objectives.

"Public benefit" means that the Open Space fulfills as many of the following criteria as are feasible:

- the Open Space is larger and contiguous, rather than smaller and fragmented. In achieving characteristics of larger and contiguous, the location of the Open Space will factor in off-site, adjacent open space natural areas;
- the Open Space conserves Site Resources located on the property;
- the Open Space is realistically capable of management for economically viable agriculture or forestry activities;
- the Open Space conserves natural habitat for animals or plants, especially those which are locally rare or unusual;
- the Open Space contributes to the ecological viability of natural systems, or natural areas, or of nearby recreation areas;
- the Open Space conserves historical and archeological resources;
- the Open Space provides opportunities for passive and/or active public indoor or outdoor recreation;
- the Open Space provides scenic enjoyment by the public from the vantage point of public lands, highways, or waters; and/or
- the Open Space provides some other open space public benefit explicitly identified by the Planning Board in its decision.

iii. To the maximum extent practicable, the plan adheres to the design guidelines set forth in Section 501.1.G above.

- b. All applicable requirements of Section 501.1.E, Section 501.1.F, Section 501.1.G, Section 501.2, Section 501.3, and Section 501.4 have been met.
- c. The types of housing units and/or other buildings proposed within the PUD shall not adversely impact the character of the area.
- d. The PUD will not have any substantial or undue impact on the environment or on transportation systems, community facilities, utilities and services and/or the applicant will contribute impact fees, in amounts acceptable to the Planning Board, in order to mitigate the impact of the PUD on transportation systems, public facilities, utilities and services.
- e. The PUD complies with all requirements of the Site Plan Review Regulations and Subdivision Regulations, as applicable.

- f. For developments proposing condominium ownership, the PUD is capable of complying with all applicable state statutes regulating the condominium form of ownership.
2. The Planning Board may condition its approval of the PUD on reasonable conditions necessary to accomplish the objectives set forth in Section 501.2.A, 501.3.A, or 501.4.A, as applicable, including a reduction in allowed density if necessary to accomplish said objectives.
3. Phasing of Development. The Planning Board may establish a reasonable timetable for phasing the development of a PUD in order to mitigate the impact of the development on community facilities, services and/or utilities.

#### 501.2 Planned Unit Residential Development (PURD).

- A. Objectives. The objectives of the PURD provisions of this ordinance are as follows:
  1. To encourage conservation of Open Space to effect appropriate density and protect important natural resources such as agricultural soils, forested land, wildlife habitat, water resources, other natural resources, including geologic and scenic, and historical and archeological resources.
  2. To establish a connected network of conservation lands, trails, and working farm and forest land throughout the City by linking the Open Spaces and trails within the subdivision, to conservation lands, important natural resources and trails on adjoining lands wherever possible, and as particularly found in the Lebanon *Master Plan* and *Natural Lebanon*.
  3. To preserve those areas of the property that have the highest ecological value, including, for example, wildlife habitat, large un-fragmented blocks of undeveloped land, and areas of co-occurring resources as shown in *Natural Lebanon*, and water resources, such as drinking water supply areas, wetlands, streams and rivers.
  4. To encourage the development of environmentally sensitive outdoor recreation land uses.
  5. To allow flexibility in residential development to provide for a diversity of housing types, densities, and styles.
  6. To provide opportunities for the development of workforce or affordable housing.
  7. To locate buildings and structures on those portions of the property which are the most appropriate for development and avoiding developing in areas ill-suited for development, including, for example, areas with poor soil conditions, a high water table, that are subject to frequent flooding or that have excessively steep slopes.
  8. To encourage a more suitable form of development by facilitating the design, construction, and maintenance of housing, streets, utilities and public services in a more economic and efficient manner and by integrating the new development into the existing built and natural environment.

9. To promote the reduction of impervious surface areas and sustainable stormwater management.

B. Applicability.

1. Required. PURDs shall be required for any major subdivision, as defined in the Subdivision Regulations, in the R-3, RL-1, RL-2, and RL-3 Districts, where the property to be subdivided equals or exceeds the following sizes:

<u>District</u>	<u>Property Size</u>
R-3	10 acres
RL-1, RL-2	20 acres
RL-3	40 acres

In the RL-1, RL-2, and RL-3 Districts, a PRec may be proposed in accordance with Section 501.3 in lieu of a required PURD.

2. Permitted. PURDs are permitted for any major subdivision, as defined in the Subdivision Regulations, in the NC, R-1, R-2, and R-3 Districts where the property to be subdivided is 5 acres or more, and in the RL-1 and RL-2 Districts where the property to be subdivided is 10 acres or more.
3. Property Size. Land within the Wetlands Conservation District and land having slopes in excess of 25 percent shall be included in determining the minimum property size. Land within the Flood Plain District shall not be included in determining the minimum property size.

C. Uses Allowed in a PURD.

1. Residential Uses. A PURD may include dwelling units in one family detached, one-family attached, two-family and multi-family dwellings. A mix of dwelling types may be permitted at the reasonable discretion of the Planning Board. In a manufactured home PURD only manufactured homes are permitted and shall be on individual lots.
2. Non-Residential Uses. Certain non-residential uses may be established within a PURD, subject to the following provisions:
  - a. Non-residential uses designed principally to service the residents of a PURD are permitted. Examples of such uses are:
    - i. Indoor and outdoor recreation facilities.
    - ii. Sales office for the sale or rental of property in the PURD.
    - iii. Medical care uses.
    - iv. Day-care facilities.
  - b. Neighborhood commercial uses such as: (1) neighborhood convenience stores, neighborhood drug stores; (2) personal convenience services including but not limited to barber shops, beauty shops, tailors, dry cleaning shops, and laundromats; (3) sandwich shops and delicatessens having fewer than 17 seats; provided that:

- i. The Planning Board finds that such uses are appropriate to the area;
  - ii. A single commercial use shall occupy no more than 4000 square feet of gross floor area; and
  - iii. Space allocated for neighborhood commercial uses shall not exceed ten percent of the gross residential floor area of the PURD.
- c. Non-residential uses and multi-family dwellings shall not be permitted for PURDs developed in the R-3 District where the property to be subdivided is less than ten (10) acres.

D. Density.

1. General. The PUD provisions of this Ordinance provide applicants with a development approach intended to promote flexibility and innovation in land planning. Within this context, the density regulations that are established are intended to be maximum allowable densities. Each tract of land possesses different, unique development characteristics and limitations, and the density allowed on any particular tract will be a function of innovative land planning and building design interacting with the special characteristics and limitations of the property. The density regulations set forth below are intended to support development on areas most suitable for development, while conserving the Site Resources.
2. Gross Density. In determining the number of dwelling units allowed by the applicable zoning district, an applicant for a PURD may use either of the following two methods:

a. Formula Method.

Subtract some of the area covered by wetlands and/or slopes in excess of 25 percent from the total area of the property, pursuant to the following table:

% of property covered by wetlands and/ or steep slopes	% of wetlands and / or steep slopes to be subtracted
< 15%	0
15% - 25%	20%
25% - 35%	40%
35% - 55%	60%
55% - 70%	80%
> 70%	100%

Reduce the result by ten percent for the area that would be allocated to roads and streets. Apply the density of the applicable zoning district to the area resulting from the foregoing calculations to determine the number of dwelling units allowed.

Example: A 500-acre property with 30 acres of wetland and 70 acres of slopes greater than 25% located in the RL-3 District. (1) Since 20% of the property is covered by wetlands or steep slopes, the above table requires that 20% of the 100 acres so covered must be

deducted, i.e., 500 acres - (20% of 100 acres) = 480 acres. (2) Deduct 10% of 480 for streets, i.e. 480 -(10% of 480) = 432. (3) 432 acres at RL-3 density of 10 acres per dwelling units = 43 dwelling units allowed in PURD.

b. Traditional Subdivision Yield Plan Method.

A yield plan for a traditional subdivision is prepared containing proposed lots that conform to the minimum lot dimension standards set forth in the Article III, and which depicts roads, rights of way, and other pertinent features designed in conformance with the Subdivision Regulations, as applicable. Although it must be drawn to scale, it need not be based on a field survey. However, it must be a realistic, reasonable, regular and ordinary layout reflecting a development pattern that could be expected to be implemented, taking into account the presence of lakes, rivers, streams, wetlands, wetland buffers, floodplains, steep slopes, existing easements and encumbrances, well placement and hydrologic yield and, if not served by public sewer, the suitability of soils for subsurface sewage disposal. The Planning Board may require test pits to demonstrate the suitability for on-site sewage disposal.

Planning Department staff shall review the yield plan and determine:

- (1) whether it represents a feasible development concept for the property; and,
- (2) whether it is likely to be approved by all government agencies from which permits would be required.

If the determinations are positive, then the number of dwelling units shown on the yield plan may be used as the number of dwelling units allowed in the PURD. Applicants choosing this method shall be required to accept the decisions of the City administrative staff as final.

c. Density Bonus.

For a PURD, the number of dwelling units resulting from the above calculations may be increased by up to 12 percent at the discretion of the Planning Board, per Section 507.

3. Property Located in Multiple Zoning Districts. Where a property is located in more than one zoning district, the total number of dwelling units allowed pursuant to Section 501.2.D.2 shall be determined separately for each zoning district. However, the increments may be aggregated to determine the total number of dwelling units allowed, and dwellings may be located on the property, irrespective of the zoning boundary location(s).

501.3 Planned Unit Recreational Developments.

- A. Objectives. The purposes of the Planned Unit Recreational Development provisions of this Ordinance are (1) to permit well planned land developments that integrate outdoor recreational use of a parcel as the principal land use with residences as a secondary land use; (2) to encourage the preservation of valuable open spaces and/or natural features; (3) to encourage the development



of environmentally sensitive outdoor recreation land uses; and (4) to provide for the efficient utilization of land and community facilities, services and utilities.

- B. Location. Planned Unit Recreational Development (PRecs) are permitted uses in the RL-1, RL-2, and RL-3 Districts, in accordance with the provisions of this section.
- C. Tract Size. All PRecs shall have a minimum tract size of 150 acres. Land within the Wetlands Conservation District and land having slopes in excess of 25 percent shall be included in determining the minimum tract size. Land within the Flood Plain District shall not be included in determining the minimum tract size.
- D. Uses Allowed in a PRec.
  - 1. Residential Uses. A PRec shall provide a minimum of 15 dwelling units. A PRec may include dwelling units in one-family detached, one-family attached, two-family and multi-family dwellings or appropriate mixes thereof, at the discretion of the Planning Board. In a PRec at least 75 percent of the land area used for building development shall be devoted to residential uses.
  - 2. Active Outdoor Recreational Uses. A PRec may include the following active outdoor recreational uses:
    - A. Golf courses.
    - B. Skiing facilities.
    - C. Tennis facilities.
    - D. Swimming pools, beaches and bathhouses.
    - E. Athletic fields, playgrounds.
  - 3. Accessory Uses. Uses customarily accessory to permitted outdoor-recreational uses such as restaurants; lounges; stables; clubhouses; maintenance facilities; locker rooms; ski lodges; pro-shops, etc.
  - 4. Other Non-Residential Uses. In a PRec, other non-residential uses permitted in PURDs pursuant to Section 501.2.C.2 may be permitted.
- E. Density. The gross and net densities of PRecs shall be as permitted for PURDs by Section 501.2.D.
- F. Minimum Open Space Preservation. In a PRec a minimum of 50 percent of the tract shall be allocated to outdoor recreation use and/or common open space. None of the area used to meet the 50 percent criteria shall be located within 50 feet of a building, structure or parking lot that is part of the PRec.
- G. Common Use Requirements. In a PRec, it is not necessary that land used for outdoor recreation and/or open spaces be held for common use. However, all approved PRecs shall contain adequate protection assuring that such land will always be used in accordance with the approved plan.
  - 1. The approved plans and the conditional use permit shall clearly state that approval is only for the outdoor recreation uses as portrayed in the approved plans and supporting documents; that any changes thereto must be approved by the Planning Board as amendments to the conditional use permit; and the any application for amendment shall fully comply with the provisions of this section, as amended (i.e. Section 501).

2. Adequate provisions shall be made to assure that in the event of discontinuance of the approved outdoor recreation use all land used for outdoor recreation uses and/or open spaces shall become compliant with the common use requirements of Section 501.2.1.F.

#### 501.4 Commercial or Industrial Planned Unit Developments.

- A. Objectives. The purposes of the Commercial or Industrial Planned Unit Development provisions of this Ordinance are (1) to allow flexibility in the site design and development of large-scale commercial and/or industrial development; (2) to encourage the preservation of valuable open spaces and/or natural features; and (3) to provide for the efficient utilization of land and community facilities, services and utilities.
- B. Location. Commercial or Industrial Planned Unit Developments are permitted uses in the Industrial, CBD, and GC Districts, in accordance with the provisions of this section.
- C. Tract Size. All Commercial and Industrial PUDs shall have a minimum tract size as follows:

<u>District</u>	<u>Minimum Tract Size</u>
Industrial	10 acres
CBD	10 acres
GC	10 acres

Land within the Wetlands Conservation District and land having slopes in excess of 25 percent shall be included in determining the minimum tract size. Land within the Flood Plan District shall not be included in determining the minimum tract size.

- D. Uses Allowed in a Commercial or Industrial PUD. Any non-residential use permitted in the Industrial, CBD or GC Districts may be allowed in a Commercial PUD.

Any non-residential use permitted or allowed by special exception or **conditional use** permit in the IND-L District may be allowed in an Industrial PUD. Additionally, no more than 25 percent of the building coverage in an Industrial PUD may be allocated to hotels, restaurants, personal services and retail sales necessary to serve the needs of the other businesses in the PUD (or of their employees).

Multi-family dwellings may be allowed in Commercial or Industrial PUDs, at the discretion of the Planning Board, provided that the Board determines that such residential uses are compatible within the proposed PUD. The density of residential uses allowed pursuant to this section shall be determined based on a maximum of 25% of the net land area of the PUD not planned for open space, roads, or utilities and calculated at a density of 13 dwelling units per acre. Where allowed, such multi-family dwelling units may be clustered together and/or distributed within the Commercial or Industrial PUD in mixed-use buildings at the discretion of the Planning Board.

#### SECTION 502 (RESERVED).

## SECTION 503

## MANUFACTURED HOUSING PARKS

### 503.1 Area.

A manufactured housing park shall have an area not less than 10 acres nor more than 50 acres.

### 503.2 Layout.

A. A manufactured housing park shall provide:

1. Individually designated spaces for each manufactured home.
2. Interior access streets for all spaces. Such streets shall have a right-of-way at least 40 feet in width and a surface travel way at least 20 feet in width built on 12 inches of compacted gravel.
3. All-weather walkways along streets.
4. At least 20 percent of the total area for common open space or recreation, exclusive of wetlands and slopes of 25% or more. This area shall not include roads, streets, parking areas, service areas, non-recreation accessory buildings or similar facilities.
5. A buffer at least 50 feet in width maintained as a landscape area abutting all manufactured home property lines.
6. Adequate facilities for recreation and/or playgrounds.

B. A manufactured housing park shall have Site Plan Review approval from the Planning Board.

### 503.3 Manufactured Home Spaces.

- A. Each manufactured home space shall be at least 10,000 sq. ft. in area and shall front on an interior access street.
- B. Each space shall have a separate driveway.
- C. Each space shall include a parking area built on 12 inches of compacted gravel. Said parking area shall be large enough to accommodate two parking spaces, each 10 feet wide by 22 feet long.
- D. At least 100 sq. ft. of indoor storage.
- E. Manufactured home spaces shall not be located on slopes having a natural grade of 15% or greater.

### 503.4 Utilities and Services.

- A. An attachment for water supply. The water supply source must meet all local and state regulations.
- B. An attachment for sewage disposal. The method of sewage disposal must be in compliance with all local and state regulations. It shall not be located on the

manufactured home space or any adjacent manufactured home space unless the manufactured home space is at least 1-1/2 acres in size.

- C. An electrical source supplying at least 60 amps, 120/240 volts. The installation shall comply with all applicable state and city electrical laws and regulations. Such electrical outlets shall be weatherproof. All electrical, television and other wired services shall be installed underground.
- D. Provisions for disposal of household garbage and rubbish.

**503.5 Siting Manufactured Homes.**

- A. A nonporous pad shall be provided for each manufactured home.
- B. No manufactured home shall be closer than 50 feet to a public street right-of-way or to a property line of the manufactured home park.
- C. A manufactured home shall be located so that it is at least 20 feet from the right-of-way of the interior road and ten feet from any other manufactured home space.

**SECTION 504 MANUFACTURED HOME SUBDIVISIONS.**

Manufactured home subdivisions shall be at least 20 acres in size and shall have at least six (6) lots. Each lot shall have at least two (2) parking spaces. Manufactured Home PURDs are allowed, in accordance with Section 501.2.

**SECTION 505 RECREATIONAL CAMPING PARKS.**

**505.1 Area.**

A recreational camping park shall have an area of not less than ten (10) acres.

**505.2 Layout.**

- A. Recreational camping parks shall provide:
  - 1. Individually designated spaces for recreational vehicles (RV) and/or tenting sites for campers.
  - 2. Interior access roads for all RV spaces/tent sites. Such roads must be at least 30 feet in width and have a compacted gravel surface at least 20 feet in width.
  - 3. Solid waste disposal facilities.
  - 4. A buffer at least 50 feet in width shall be maintained as a landscaped area or naturally vegetative buffer abutting all recreational camping park property lines except when the recreational camping park boundary is adjacent to residential uses, where the buffer shall be at least 50 feet in width.
  - 5. Fifty percent (50%) of its area as open space, which shall not be used for camping, active recreational facilities, RV spaces or tent sites and which can include space between campsites in calculation.

6. Neither the buffer, nor the open space (as referenced in #4 and #5 above) shall include any portion of the RV spaces or tent sites required by Section 501.3 A.
- B. A recreational camping park shall have Site Plan Review approval from the Planning Board.

**505.3 Camping Spaces.**

- A. Each RV space or tent site shall be at least 1000 sq. ft. in area and at least 30 feet wide.
- B. RV spaces shall have a compacted gravel surface at least 10 feet wide by 20 feet long.
- C. No RV space or tent site, shall be closer than 50 feet to a public street right-of-way or a property line.
- D. Each RV space shall have water available. The water supply source must meet all local and state regulations.
- E. Each RV space shall have an electrical source supplying at least 30 amps, 120 volts with weatherproof electrical outlets. The installation shall comply with all applicable state and city electrical laws and regulations.

**505.4 Service Building.**

Each recreational camping park shall provide one or more service buildings in accordance with the following specifications. Such building shall meet all applicable state and local regulations.

- A. Toilets of any type shall be placed in a building that is not more than 500 feet from any RV space nor less than 50 feet from any RV space. No service building shall be located within 80 feet of any public street or highway.
- B. Interior Lighting Requirements. The service building shall be lighted with a light intensity of five foot-candles measured at the darkest corner of the room.
- C. Construction Requirements.
- D. Toilet Requirements. Separate toilet areas shall be provided for males and females in accordance with all applicable state and local laws.
- E. Lavatory Requirements. Toilet rooms shall contain one lavatory with hot and cold running water for each two toilets, but in no case shall any toilet room be without at least one lavatory with hot and cold running water.
- F. Heating Requirements. Each service building shall have heating facilities to maintain a minimum temperature of 70 degrees Fahrenheit.
- G. Shower Requirements. Each service building shall have shower facilities with hot and cold running water.

506.1 Lot Area, Dimensions.

- A. A medical center complex shall be one or more contiguous lots containing a total of not less than 50 acres as designated on an approved site plan filed with the Lebanon Planning Board. The boundaries of a medical center complex may be amended from time to time, but in no case shall the total area within the complex be less than 50 acres.
- B. Area and dimension requirements for the Medical Center Zone shall not apply within the medical center complex boundaries.
- C. A minimum yard of 40 feet shall be maintained along all outside boundaries of a medical center complex.

506.2 Building Height, Coverage.

Notwithstanding the provisions of Section 315.3, the following shall apply:

- Maximum building coverage = 40%
- Maximum building height = 100 feet

506.3 Allowed Uses

In addition to a hospital, the following uses are allowed within the Medical Center Complex:

1. Medical School - A medical school is an educational facility for the furnishing of undergraduate and graduate medical education and the conduct of scientific investigation and research.
2. Medical Aviation Use - Any area of land, used for helicopters used to transport patients, medical supplies, and personnel in the event of a medical emergency, and accessory uses necessary to the operation of helicopter service, including on-call crew quarters, communications and operation center, helicopter storage maintenance, and fueling facilities.
3. Congregate Living Facilities/Dormitory - A congregate living facility or dormitory is a housing facility provided by the Medical Center Complex which provides housing for ten or more of their adult health care students in single or double living quarters.
4. Sanatorium, nursing home, or convalescent home.
5. Any of the following uses, as defined in this Ordinance, when all or substantially all of the business will be with and for the patients, and the visitors of those patients, the employees and the staff of the building and facilities located within the medical center complex.
  - a. Personal service.
  - b. Retail store.
  - c. Restaurant.
  - d. Branch bank.
  - e. Indoor/outdoor recreational facilities.
  - f. Group day care facility.

**SECTION 507****BONUSES FOR CERTAIN PLANNED DEVELOPMENT.**

PUD's and manufactured home parks and subdivisions may receive an increased density bonus pursuant to Table 507.1 and the provisions of this section.

**507.1 Increased Density Bonuses.****Maximum Amount of Bonus Available**

<b><u>Type of Development</u></b>	<b><u>For Use of Technique</u></b>	<b><u>For Sensitivity to Environment</u></b>	<b><u>For Creating Affordable Housing</u></b>	<b><u>For Reducing Fiscal Impact</u></b>	<b><u>For Energy Efficient Design</u></b>	<b><u>For Renewable Energy Facilities</u></b>
PURD or PRec	12%	----	----	----		
MH Park (or subdivision)	NONE	----	----	----		
Subdivision	NONE	----	----	----		

**507.2 Criteria for Award of Bonus.**

The Planning Board may allow a gross density of development greater than allowed under Article III of this Ordinance for PURD's (or PRec's) manufactured home parks (or subdivisions) or traditional subdivisions up to a maximum bonus allowed by Table 507.1. The following guidelines shall be used in determining whether a bonus shall be awarded.

- A. **Use of Technique.** An applicant may receive a bonus not exceeding 12% for using either the PURD or PRec form of development.
- B. **Sensitivity to Environment.** **(Reserved)**
- C. **Affordable Housing.** **(Reserved)**
- D. **Reduced Fiscal Impact.** **(Reserved)**

The decision of the Planning Board in awarding such a bonus and the amount thereof is hereby declared to be a discretionary administrative decision of the Planning Board. In no case shall the Planning Board award a bonus if it determines that the limitations of a site cannot accommodate the increase.

**SECTION 508****PLANNED BUSINESS PARKS.****508.1 Purpose.**

The purpose of this Section is to encourage and promote well planned, suitable and appropriate industrial development with office, residential and commercial components. The purpose of Planned Business Parks are to:

- A. Provide for the diverse needs of the residents of the City and to allow developers the flexibility to accomplish such goals without sacrificing the existing image and character of the surrounding neighborhood.

- B. Encourage efficient land use by facilitating compact, high-density development and minimizing the amount of land needed for surface parking by utilizing parking structures.
- C. Facilitate safe, compatible and attractive development for residents, employers, employees, patrons and pedestrians.

508.2 General Requirement. A Planned Business Park is a use permitted in the Light Industrial District and the Industrial Rail Access District.

508.3 Lot Area. A Planned Business Park shall include a minimum of twenty (20) contiguous acres with at least four (4) lots.

508.4 Sectors, Allowed Uses.

- A. The Planned Business Park shall be shown on an approved Subdivision Plan and Use Allocation Plan. The Subdivision Plan and Use Allocation Plan approved by the Planning Board shall designate the allocation of the Industrial/ Office, Commercial and Residential Uses within the Park.
- B. No more than 20% of the net land area not planned for open space, roads, or utilities shall be used for the Commercial Sector.
- C. Unless limited by the Planning Board at the time of subdivision approval, the following uses shall be permitted.
  - 1. The following uses shall be permitted by right for any Planned Business Park Industrial/Office Sector: light industry; warehouse; trucking terminal; publishing/printing; plumbing, electrical or carpentry shop; research laboratory; local government use; essential service; outdoor storage per §303.4 (less than 20%); group day care facility; general business offices, research facilities, medical office buildings; private athletic and/or health clubs, Educational Facility, College/University; Educational Facility, Vocational School; and accessory uses to a permitted use. Retail showrooms per §303.5 and 303A.5 shall be allowed by **conditional use** permit.
  - 2. The following uses shall be permitted by right for any Planned Business Park Commercial Sector: retail store(s) up to a cumulative maximum of 20,000 sq. ft. of gross floor area; personal service; bank, branch bank; restaurant, sandwich shop/deli; refreshment stand; office; motel; hotel; movie theater; membership club; amusements (indoor); printing (i.e. retail copy store); radio or TV studio; group day care facility; local government use; and private athletic and/or health clubs.
- D. Multi-family dwellings shall be provided for in all Planned Business Parks. The maximum number of dwelling units allowed pursuant to this section shall be based on a minimum of 15% and a maximum of 25% of the net land area of the Park not planned for open space, roads, or utilities and calculated at a density of 13 dwelling units per acre. Such multi-family dwelling units may be clustered together and/or distributed within the Park at the discretion of the Planning Board.
- E. There shall be no more than one group day care facility and one private athletic and/or health club in the Planned Business Park for service to the general public. However, said facilities are allowed as exclusive adjuncts to a business company or corporation.



508.5 Dimensional Requirements.

- A. The minimum lot requirements and maximum limitations for the Planned Business Park shall be those set forth in the Table of Area, Dimensions and Coverage for the zone in which the Park is located.

508.6 Application Procedures.

- A. Conditional Use Permit. All Planned Business Parks shall obtain a conditional use permit from the Planning Board:

The conditional use permit shall clearly set forth all conditions of approval including the dimensional requirements and uses allowed by the Zoning Ordinance in effect at the time of such approval and any additional restrictions on the uses allowed within the Sectors by Section 508.4.C above which are judged by the Planning Board to be necessary to accomplish the objectives of the Lebanon Master Plan and of this section; and shall clearly list all plans, drawings and other submittals that are part of the approved development. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval unless otherwise waived by the Planning Board.

- B. Application Procedure. Applications for conditional use permits for Planned Business Parks shall be made in accordance with the procedures set forth in the Subdivision Regulations of the Planning Board. Applications shall comply with all requirements of the Subdivision Regulations, as applicable. Subsequent development of individual lots shall be made in accordance with the procedure set forth in the Site Plan Review Regulations.
- C. Approval of Applications. A conditional use permit shall be issued only if a Planned Business Park complies with all of the requirements of this section.
- D. Phasing of Development. The Planning Board may establish a reasonable timetable for phasing the development of an approved Planned Business Park in order to mitigate the impact of a development on community facilities, services or utilities.
- E. Applicable Requirements. In order to encourage long-range planning and the consistent development of the project as a whole, the dimensional requirements set forth in the Planned Business Park's Conditional Use Permit as evidenced by the Notice of Action of approval shall continue to apply to the Park while it is being developed, in spite of any subsequent revisions of our amendments to this Ordinance. In the event the dimensional requirements are not defined in the Notice of Action, the dimensional requirements contained in the Zoning Ordinance in effect on the date the approval was granted shall govern.

## ARTICLE VI

### ADDITIONAL STANDARDS FOR SPECIFIC USES

#### SECTION 600

#### HOME BUSINESSES.

##### 600.1 Performance Criteria.

A home business shall not materially disturb the total residential environment and shall comply with the criteria listed herein. When a home business grows beyond these limits, it shall be required to seek facilities other than the home. If more than one business is conducted on the premises, all of the businesses together shall not exceed these criteria.

- A. A home business is any activity carried out for financial or material gain by a resident conducted as an accessory use in the resident's dwelling unit or accessory structure. Examples of home businesses include but are not limited to: woodwork, massage, attorney, engineer, and tailor.
- B. The business shall be carried on by a person only within the dwelling used by him or her as his or her private residence, or within an accessory structure.
- C. The business shall not occupy an area greater than 25% of the finished floor area of the dwelling.
- D. The business shall employ no more than two persons working on the premises other than family members living in the dwelling.
- E. The business shall not have window displays, window advertising or any other advertising, except an identification sign complying with Section 608.3.
- F. The business shall not detract from the residential character of the neighborhood. It shall not:
  - 1. Generate non-residential levels of noise, vibration, glare, smoke, dust, fumes, odors, or heat.
  - 2. Generate more than an average of two (2) vehicular trips per hour to the premises for each hour the business is open or peak of six (6) vehicles per hour.
  - 3. Require the use of on-street parking.
  - 4. Require more than two (2) off-street parking spaces beyond those required by the dwelling (see Section 607, Table of Minimum Off-Street Parking).
  - 5. Generate non-residential truck deliveries more than twice per week.
  - 6. Utilize the exterior spaces of the residential structure or yard for storage, display or occupational activities that deviate from typical residential use.
  - 7. Involve the overnight parking of more than one business car or other business vehicle on the premises.

- G. The following uses, by nature of the investment or operation, have a potential to rapidly increase beyond the limits specified and impair the use, value and quiet enjoyment of adjacent residential properties: retail stores, vehicular sales, vehicular repair, restaurants, sandwich shops, and on-site commercial recreation. By their nature these uses are more appropriate in zoning districts that allow them and, therefore, are not permitted as home businesses.

Retail sales of products that are generated by or incidental to an approved home business shall be permitted. Examples include but are not limited to the sale of hair care products as part of a hair salon home business, and the sale of items created as part of a woodworking home business.

#### 600.2 Permits.

Every home business shall require a permit from the Zoning Administrator. The permit shall completely describe the type of business activity being carried on; the parts of the dwelling devoted to residential use; and any limitations thereon. The applicant shall provide evidence to the satisfaction of the Zoning Administrator that the criteria of Section 600.1 are met.

The use of a room in a dwelling as a home office by a resident/occupant shall be exempt from this section, provided that the use does not generate any traffic such as (i) deliveries or pickup of supplies or materials in excess of normal residential use, or (ii) clients/customers coming to the property.

### SECTION 600A HOME BASED CONTRACTOR'S YARD.

#### 600A.1 Purpose.

The purpose of this section is to permit home based contractor's yards where the operation of such uses will not materially disturb the total residential neighborhood environment.

#### 600A.2 Special Exception Required.

- A. Where permitted under Article III, a home based contractor's yard shall require a Special Exception.
- B. A Special Exception shall be granted upon demonstration of compliance with the following standards, in addition to the general Special Exception criteria set forth in Section 801.3:
  - 1. The property at which the home based contractor's yard is proposed to be located is a minimum of one (1) acre in size.
  - 2. The operator of the home based contractor's yard shall be a resident of the property on which the contractor's yard is located.
  - 3. Other than the operator, no more than two (2) persons may work on the property at one time. This restriction shall not apply to members of the operator's family who also reside on the property.
  - 4. The operator's business shall not have window displays, window advertising or any other advertising, except an identification sign complying with Section 608.3.

5. A minimum of one (1) off-street parking space shall be provided plus one (1) off-street parking space per each non-resident employee who parks at the property. No more than two (2) parking spaces may be used for non-resident employee parking. Parking spaces shall meet the requirements of Section 201.7 and all applicable requirements of Section 607.
6. The operation and presence of the contractor's yard shall not detract from the total residential character of the neighborhood. It shall not:
  - a. Generate non-residential levels of noise, vibration, glare, smoke, dust, fumes, odors, or heat.
  - b. Use on-street parking.
  - c. Generate non-residential truck deliveries more than twice per week.
7. No more than three (3) motor vehicles used in connection with the home based contractor's yard may be parked on the property at any one time. Motor vehicles must be 26,000 lbs GVWR or less. The parking of an employees' personal motor vehicle shall not count towards the maximum.
8. In order to further ensure that a home based contractor's yard will not materially disturb the total residential neighborhood environment, the outdoor storage of business equipment, the overnight outdoor parking of motor vehicles used in connection with the home based contractor's yard, and outdoor work areas:
  - a. shall be permitted in the side and rear yards only;
  - b. shall not be permitted within minimum required yards;
  - c. shall occupy no more than 10% of the total acreage of the property nor exceed one (1) acre whichever is less, exclusive of areas covered by buildings; and
  - d. shall be screened from view from abutting residential properties and public streets.

The Zoning Board of Adjustment may waive any of the requirements in this subsection (Section 600A.2.B.8) when it determines that the purpose of the requirement can be reasonably and adequately addressed by alternative means.

Notwithstanding the foregoing, one motor vehicle used in connection with the home based contractor's yard may be stored overnight within the front yard in accordance with Section 201.7 and Section 600A.2.B.4.b, without required screening from abutting residential properties.

## SECTION 601

## CONVERSIONS OF OLDER RESIDENCES AND OTHER BUILDINGS.

The remodeling of a residential structure and other buildings existent as of the 2013 amendment to this section for a multi-family dwelling or an office use in the R-1, R-2, R-O, and R-O-1 Districts; or for a private education facility, library or museum, theater, concert hall, movie theater in the R-2 District only, shall comply with the following provisions:

### 601.1 Architecture.

Remodeling for conversions shall not alter the appearance of the exterior of the structure in a manner that is not compatible with the architectural character of the existing building; of abutting properties; or of the neighborhood. New construction of offices shall be compatible with the architectural character or the abutting properties and neighborhoods.

For the purpose of this subsection only, the term "compatible" shall mean having architectural style or design; scale; exterior finish and treatment; site work; and landscaping consistent with that which exists in the neighborhood, on abutting properties and on the structure being remodeled, as applicable.

### 601.2 Parking & Access.

Adequate off-street parking shall be provided on the lot, unless off-premise parking is approved pursuant to Section 607.4. Such parking:

- A. Shall not occupy the front yard except within parking areas existent as of the 2013 amendment to this section; and
- B. Shall be screened from abutting properties.

### 601.3 Coverage.

Impermeable coverage plus unpaved parking and driveway areas shall not exceed 65 percent of the lot area.

### 601.4 Density.

The conversion or new construction of multi-family shall comply with the zoning district requirement for "Additional Area Per Dwelling Unit After Two."

### 601.5 Additions To Existing Buildings.

Such remodeling may include expansion of the building by special exception provided that:

- A. The architectural compatibility requirements of Section 601.1 are complied with.
- B. Such addition shall not materially diminish the air and light available to abutting structures or materially reduce the openness of the neighborhood.

### 601.6 Accessory Buildings.

In zoning districts where such conversions are allowed, an accessory building existent as of the 2013 amendment to this section, may be converted to multi-family dwelling unit(s) or an office use by special exception.

#### 601.7 Mixed-Uses.

In the R-2, R-O and R-O-1 Districts, a converted building may have both residential and office uses.

#### 601.8 Replacements of Destroyed Structures.

In the R-2, R-O and R-O-1 Districts, a building erected as a replacement of a dwelling which existed as of the 2013 amendment to this section, may be converted to an office use by special exception, provided all requirements of Section 601 and Section 801.3 are met. This includes the requirement of Section 601.1--i.e., that the new building be architecturally compatible with the abutting properties and neighborhood.

#### 601.9 Site Plan Review.

All such remodelings and changes or expansions of use shall be required to have Site Plan Review by the Planning Board.

### SECTION 602 NON-COMMERCIAL SWIMMING POOLS AND HOT TUBS.

#### 602.1 General.

A non-commercial swimming pool or hot tub which is designed to contain water depth of 24 inches or more shall not be located, constructed or maintained on any lot or land areas, except in conformity with the requirements of this Ordinance. Any existing pool not in conformance with these regulations shall be discontinued.\*

\*Note: Section 603.3 of the July 19, 1978 zoning Ordinance required that all non-complaint swimming pools be discontinued by July 18, 1983.

#### 602.2 Siting Criteria.

- A. Such a pool or tub shall be located in a rear or side yard unless the Board of Adjustment, by special exception, allows the pool/tub to be located in the front yard.
- B. Such pool or tub shall be not less than 15 feet from side and rear lot lines.

#### 602.3 Fencing.

- A. In-Ground: Every in-ground non-commercial swimming pool or hot tub shall be entirely enclosed with a chain link, stockade type, or other equivalent fence of not less than four (4) feet in height measured from the ground level, unless a special exception is granted.
- B. Above-Ground:
  - 1. Every above-ground pool or hot tub with sides less than 4 feet above the finished grade shall be fenced in accordance with the requirements for in-ground pools.
  - 2. Above-ground pools with sides at or greater than 4 feet above the finished grade shall be secured with a locking gate, locking/ removable ladder, or the like, unless in conformance with Section 602.3.B.1.

602.4    Water Supply.

- A.    If the water for such pool/tub is supplied from a private well, there shall be no cross-connection with the public water supply system.
- B.    If the water for such pool/tub is supplied from the public water supply system, the inlet shall be above the overflow level of said pool. Backflow prevention devices shall be installed as required by the Department of Public Works.

602.5    Lighting.

No lighting or spot lighting shall be permitted which will shine directly beyond the bounds of the property or lot where such pool is located.

602.6    Permits.

- A.    Every non-commercial swimming pool or hot tub shall have a permit from the Zoning Administrator.
- B.    No permit shall be granted for the installation or construction of such swimming pool unless the plans shall meet the minimum construction requirements of the City and unless the City Engineer, or a licensed professional engineer of the State of New Hampshire has certified that the drainage of such pool is adequate and will not interfere with the public water supply system, with existing sanitary facilities or with the public streets.

SECTION 603            SENIOR HOUSING COMPLEXES.

The Board of Adjustment may grant a special exception to allow a senior housing complex to have a greater density than that specified for the applicable zoning district. Senior housing complexes may include congregate living facilities, subject to granting of a special exception by the Board of Adjustment.

SECTION 604            GROUP DAY CARE FACILITIES.

604.1    Play Area.

- A.    There shall be a fenced outside play area which shall be free from hazards such as hidden corners; unprotected pools, wells, and steps; poisonous plants such as poison ivy, foxglove, and rhubarb; farm or lawn machinery or implements.
- B.    It shall contain at least 50 square feet of usable play space per child using it, and the average width shall not be less than eight feet. Play areas shall not be permitted in front yards.
- C.    By special exception, the Board of Adjustment may waive the requirement for a fence or the requirement that the play area not be in the front yard.

604.2    Other Requirements.

- A.    A suitable loading and unloading area shall be provided for those children for whom the facility provides transportation. This area shall be in addition to required parking areas.
- B.    Group day care facilities shall comply with all applicable state and federal regulations.

- C. Parking: One (1) parking space for each employee and one (1) parking space for every eight (8) clients shall be provided on site.

#### 604.3 Family Day Care Home.

The care in the home of six (6) or fewer children (inclusive of children under 6 years old who live in the home) is permitted in any residential use district, and no zoning permit is required, provided that persons living off the premises are not employed. If persons living off the premises are employed, such child care is a home business subject to the requirements of Section 600 (home business permits).

The care in the home of more than six (6) children (inclusive of any children under 6 years old who live in the home) is a group day care facility under this Ordinance.

### SECTION 605 JUNKYARDS.

Junkyards are allowed only in the Industrial Heavy (IND-H) zoning district, and only as a special exception.

#### 605.1 Lot Area.

The minimum lot area shall be the greater of 150,000 square feet or the minimum lot area requirement for the applicable zoning district.

#### 605.2 Location.

No junkyard shall be located within 250 feet of any stream, lake, pond, marsh, swamp or wetland or other body of water.

#### 605.3 Buffer.

Every junkyard shall have a minimum 100-foot-wide buffer.

#### 605.4 Fencing Requirements.

- A. For Safety: There must be erected and maintained an eight (8) foot high fence adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt with by the operator of the junkyard. All the materials dealt with by the operator of the junkyard shall be kept within such fence at all times. Whenever the junkyard is not open for business, or temporarily not supervised, this fence, and any gate thereto, shall be secured or locked to prevent entry. Through Site Plan Review, the Planning Board may waive the requirement for such a fence where topography or other natural conditions effectively prevent the entrance of children and others.
- B. For Screening: Where a junkyard is or would be visible from a public highway or from neighboring properties the fence shall be of wood or other material sufficient to totally screen the junkyard from view. As an alternative, the Planning Board, through Site Plan Review, may permit screening by adequate plantings of evergreens.



#### 605.5    Operation.

The junkyard shall be operated so as to minimize the fire hazard therefrom and to prevent improper trespass thereon by children and others. Adequate means of fire protection shall be maintained on the premises at all times. The junkyard shall comply with all applicable federal, state and local laws and regulations.

#### 605.6    Discontinuance.

All junkyard not in conformance with this Ordinance shall be discontinued. The owner of the property shall insure that the land is clear of all hazardous material on and within the soil and that said property is safe for future use.\*

\*Note: Section 603.1 of the July 19, 1978 zoning Ordinance required that all non-compliant junkyard be discontinued by July 18, 1983.

### SECTION 606                    EXCAVATION OF NATURAL EARTH MATERIAL.

Excavation of "earth" as defined by RSA 155-E:1 shall comply with RSA 155-E. RSA 155-E:1 states that in cities, the planning board is the regulator of local excavations. Hence, any special exception for the removal of earth material which is granted by the Board of Adjustment shall be conditioned upon the receipt of an excavation permit from the Planning Board, per RSA 155-E.

### SECTION 607                    PARKING

#### 607.1    General.

Minimum off-street parking shall be provided as set forth in the following "Table of Minimum Off-Street Parking Requirements." The Planning Board, during site plan review of new uses or expansions of use, may allow a reduction of up to 30% in the number of required built parking spaces, provided an area is reserved on the approved site plan to accommodate the minimum number of required off-street parking spaces should they become necessary in the future. The construction of any unbuilt parking spaces shall be reviewed and approved by the Planning Board as a modification of the approved site plan.

#### 607.2    Table of Minimum Off-Street Parking Requirements.

- A. For developments having multiple separate business uses, for mixed use buildings, and for any development approved under Section 501.4 ("Commercial or Industrial Planned Unit Developments") or Section 508 ("Planned Business Parks"), the total minimum parking requirement shall be determined as per Section 607.6 ("Shared Parking").
- B. For uses not listed in the table, the minimum requirement shall be that of the closest similar use as determined by the administrative official (or board) who is applying this section.

#### 607.3    Maximum Off-Street Parking Requirement.

- A. The maximum off-street parking allowed is 120% of the minimum requirement set forth in Section 607.2. (For example, if a use or development is required to have 100 off-street parking spaces, then the maximum allowed for that use or development is 120 off-street parking spaces.) The maximum parking requirement shall not apply to any lot containing a one or two family dwelling.

B. Off-street parking in excess of 120% but not more than 150% of the minimum requirement set forth in Section 607.2 may be permitted as set forth below.

1) The following categories of parking spaces shall not be counted towards the 120% maximum set forth in subsection A, but shall be subject to the 150% cap set forth in subsection B:

- a. Spaces provided within a Parking Structure.
- b. Spaces dedicated for vehicles participating in a carpool, vanpool, or car-share program. Such spaces shall be reserved and used only for carpool, vanpool, or car-share program parking, and shall be signed or marked accordingly.
- c. Parking spaces dedicated for vehicles operating on primarily alternative fuels including but not limited to electric, natural gas, and hydrogen. Such spaces shall be reserved and used only for alternative fueled vehicles and shall be signed accordingly and/or the spaces shall be painted with the words "Alternative Fueled Vehicles Only."

2) For spaces other than those described in subsection B.1), the Planning Board may approve parking in excess of the 120% maximum set forth in subsection A by Conditional Use Permit provided that the following criteria are met:

- a. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses;
- b. The proposed development demonstrates that its design and intended uses will continue to support high levels of existing or planned transit and pedestrian activity; and,
- c. The site plan indicates where additional parking can be redeveloped to a more intensive transit supportive use in the future.
- d. In no case shall the Planning Board approve parking for any use or development that exceeds 150% of the minimum requirement as set forth in Section 607.2.

C. Exception. The maximum parking requirements set forth in subsections A and B shall not apply to any change of use within an existing building which does not require Site Plan review or where no additional parking spaces are proposed or required per Section 607.1.

#### 607.4 CBD and PB Parking.

Uses in the CB District and the PB District are exempt from these requirements because of the availability of public parking. However, parking requirements in the CBD and PB districts shall be as required by the Planning Board through its Site Plan Review of new uses or changes or expansion of use.

#### 607.5 Location and Layout of Required Parking.

Required parking shall be provided on the same lot as the use for which parking is required, except as follows:

- A. In the IND-L, IND-H, IND-RA, GC, CBD, RO, RO-1, PB, and MC Districts, the Planning Board may approve private off-lot parking as a conditional use, during the Site Plan Review process, provided that:
1. Such off-street parking is in an appropriate location for the use served by the parking.
  2. Such parking arrangements are either permanently deeded and recorded or conveyed by an irrevocable 99-year lease or some other legal instrument, acceptable to an attorney representing the City, that will ensure that such parking arrangement will remain as long as the need exists.
  3. Such shared parking arrangements do not constitute a hazard to traffic or pedestrians.
- B. For conversions of residences to multi-family dwellings, the Planning Board may approve private off-lot parking, as a **conditional use** permit. Instead of the findings required by Section 302.4, the Board shall determine that:
1. The off-lot parking is on a lot adjacent to the dwelling involved; and,
  2. The off-lot parking is appropriately screened from abutting properties; and,
  3. The off-lot parking will not be detrimental to abutting properties.
  4. Such parking arrangements are permanently and irrevocably deeded by easement and recorded.
  5. The off-lot parking will not constitute a hazard to traffic or pedestrians.
  6. The adjacent lot shall not be in the same ownership.

**607.6 Shared Parking.**

- A. For developments having multiple separate business uses, for mixed use buildings, and for any development approved under Section 501.4 ("Commercial or Industrial Planned Unit Developments") or Section 508 ("Planned Business Parks"), the amount of required parking shall be reduced in accordance with the following methodology:
1. Determine the minimum parking requirements in accordance with the "Table of Minimum Off-Street Parking Requirements" for each use as if it were a separate use.
  2. Multiply each amount by the corresponding percentages for each of the five time periods set forth in the "Table of Shared Parking Ratio Reduction Factors".
  3. Calculate the total for each time period.
  4. Select the total with the highest value as the required minimum number of parking spaces.

**TABLE 607.6. SHARED PARKING RATIO REDUCTION FACTORS**

(A)	Weekday		Weekend		(F)
	(B)	(C)	(D)	(E)	
Land Use	Daytime (9:00 am to 4:00 pm)	Evening (6:00 pm to midnight)	Daytime (9:00 am to 4:00 pm)	Evening (6:00 pm to midnight)	Nighttime (midnight to 6:00 am)
Office/Industrial	100%	10%	10%	5%	5%
Retail/Personal Service	60%	90%	100%	70%	5%
Hotel	75%	100%	75%	100%	75%

Residential	50%	75%	100%	80%	100%
Restaurant	50%	100%	100%	100%	10%
Entertainment/Recreational	40%	100%	80%	100%	10%
All other uses	100%	100%	100%	100%	10%

B. Alternative Procedure. For those developments and uses subject to the shared parking requirements in subsection A, a greater reduction in the minimum number of required parking spaces may be approved upon submission of a parking study, prepared by a qualified parking or traffic consultant, which:

1. Provides a detailed description of the proposed uses, hours of operation, anticipated peak parking demand, and anticipated hours that such peak parking demand will occur;
2. Demonstrates that the Table 607.6 Shared Parking Ratio Reduction Factors do not adequately account for circumstances unique to the development; and
3. Demonstrates the peak parking demand for the proposed uses will not coincide.

Minimum required parking calculations using this alternative procedure shall be subject to Conditional Use Permit approval by the Planning Board when the development or use requires Site Plan approval. Where Site Plan approval is not required, minimum required parking calculations using this alternative procedure shall be administered by the Zoning Administrator. Decisions of the Zoning Administrator may be appealed in accordance with Article IX. The Planning Board or Zoning Administrator may impose reasonable conditions to mitigate potential negative impacts.

**TABLE OF MINIMUM OFF-STREET PARKING REQUIREMENTS**  
(Rounded up to the nearest whole - See Section 607.2)

<u>TYPE OF USE</u>	<u>UNITS OF MEASUREMENT</u>	<u>PARKING SPACES PER UNIT (I.E. RATIO)</u>
<b>RESIDENTIAL</b>		
Dwelling, Single Family/Two-Family detached and attached	Dwelling units	2.0
Dwelling, Studio Apartment	Dwelling units	1.0
Dwelling, Apartment, One-bedroom and up	Dwelling units	1.5
Senior Housing	Dwelling units	1.0
Group Residence	Residents	0.33
Lodging House	Rental units	2.0 base + 1.0/bed
Dormitory	Beds	1.0
<b>INSTITUTIONAL, ETC.</b>		
Medical Center Complex	Gross floor area	1.0/425 sq. ft.
Hospital, nursing home	Beds & Employees on largest shift	0.33/bed & 0.33/employee

Churches and other places of public assembly (i.e. theaters, auditoriums, recreational facilities, conference or meeting facilities and the like.)	Seats or gross floor area of assembly area if no seats	0.33/seat or 1/20 sq. ft.
Group day care	Employees and clients	1.0/employee & 1.0/8 clients
Membership club	Gross floor area	1/300 sq. ft.
<b>SCHOOLS</b>		
Elementary, Jr. High	Classrooms	3.0
Senior High	Classrooms	5.0
Post secondary and Voc-Ed	Gross floor area	1/300 sq. ft.
<b>COMMERCIAL</b>		
Motel, Hotel	Rental Units	1.2 plus restaurant component, if applicable.
Tourist home, bed and breakfast	Rental units	2.0 (base) + 1.0 per unit plus restaurant component, if applicable.
Restaurant	Seats	0.33
Bowling alleys	Lane	4.0
Office, to include medical	Gross floor area	1.0/250 sq. ft.
Retail	Gross floor area	1.0/200 sq. ft.
Retail- e.g. convenience store, bakery, take-out food establishments	Gross floor area	1.0/200 sq. ft.
Personal Service	Gross floor area	1.0/250 sq. ft.
Banks	Gross floor area	1.0/250 sq. ft.
Furniture store, major appliance store, carpet store, vehicular sales, nursery, greenhouses	Gross floor area	1.0/600 sq. ft.
Automotive services (i.e. repair facilities, tire sales and mounting)	Service bays	4.0/Bay
Funeral home	Gross floor area in assembly rooms	1.0/75 sq. ft.
Other commercial	Gross floor area	1.0/600 sq. ft.
Alternative Treatment Center	Gross Floor Area	1.0/250 sq. ft.
Alternative Treatment Center (Cultivation Location Only)	Gross Floor Area	1.0/600 sq. ft.
<b>INDUSTRIAL</b>		
Warehouse (includes self-storage) and truck/bus terminal	Gross floor area	1.0/1,000 sq. ft.
Light industry & Research lab	Gross floor area	1.0/600 sq. ft. or 1.0/employees for the largest shift (whichever is larger)
Outdoor storage and sales	Gross area of storage/sales	1.0/2,000 sq. ft.

## SECTION 608

## SIGNS.

### 608.1 Purpose and Intent.

The intent of this section is to allow the erection of signs in an orderly, effective and safe manner. The principal guiding these regulations is that signage should not destroy or detract from the scenic vistas and visual quality of the community, compete unnecessarily with the natural environment which is a major asset to the City, or proliferate in number with competitive advertising sales campaigns.

Therefore, recognizing that any business needs identification and that the public needs direction, the following sign regulations protect the public from hazardous and distracting displays and create an attractive environment which is conducive to business, industry and tourism. These regulations are to encourage the use of street graphics which are compatible with the community character, readable and clear, non-distracting to vehicular traffic and maintained in safe and good repair.

### 608.2 Off-Premise Signs.

A sign which pertains to a use or activity occurring on premises other than the premises on which the sign is located is not permitted.

### 608.3 Signs in Residential Districts.

- A. For all new and existing businesses, or home businesses in the R-1, R-2, R-3, RL-1, RL-2, RL-3, PB, R-O and R-O-1 Districts one sign is permitted per lot which may be either free standing or building mounted. The sign shall not be illuminated.
- B. The area of the sign is limited to four square feet if only one dwelling unit or business activity is located on the lot. For each additional dwelling unit or business activity on the lot, an additional one and one-half square foot of sign area may be added to the single sign permitted on the lot. The total sign area for each lot shall not exceed ten square feet.
- C. For residential development projects, such as a PURD or Multi-Family Development, the development as a whole may have one sign, not to exceed 16 square feet in area, in addition to any other signs permitted by this Section.
- D. Signage for businesses that are permitted in approved PURD's or PRec's shall be as approved by the Planning Board.

### 608.4 Signs in Commercial and Industrial Districts.

Signs in the GC, CBD, MC, NC, IND-L, IND-RA or IND-H Districts shall meet the following requirements:

- A. (Reserved)
- B. Signs for an Individual Business: An individual industry or business may have a maximum of two signs, as follows:
  - 1. One or two affixed signs; or

2. One affixed, with either one projecting or one freestanding sign on the premises.

An individual industry or business which is part of a business center, plaza or shopping mall shall not have the right to one freestanding sign but shall be limited to one or two affixed, or one affixed and one projecting.

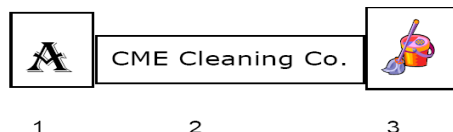
3. An individual business occupying other than ground floor premises may have, in addition to those signs permitted above, a ground floor sign, fixed but not projecting, which shall not exceed two square feet in size.
4. The total sign area for the combination of signs shall not exceed that determined by the following formula:

Linear width, or frontage, of the "business storefront\*" in feet, x .8 feet; for example, a store with 40 feet frontage (40' x .8' = sq. ft.) would be allowed a total of 32 square feet of sign area.

**\*BUSINESS STOREFRONT:** *That portion of the side of a structure occupied by a business use which faces the main street or major point of access. If the business use faces two main streets or major points of access, then said business shall be deemed to have two business storefronts. If the business use faces three or more main streets or major points of access, then said business shall designate only two faces which shall be deemed business storefronts. (From Appendix A)*

Individual industrial use or business shall be allowed to have a minimum sign area of 32 square feet.

**SIGN AREA:** *The sign area means the entire area within one, but not more than three separate geometric forms\* enclosing the extreme limits of writing, representation, emblem or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. The geometric forms shall be limited to a circle, triangle or parallelogram, or any combination thereof. Geometric forms located more than twelve (12) inches apart shall be considered separate signs. Where a sign has two or more faces, the area of all faces shall be included in determining area of the sign, except where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken either as the area of one face - if the two faces are of equal area, or the area of the larger face - if the two faces are of unequal area. (From Appendix A, see illustration below\*)*



(\*3 separate geometric forms = total sign area)

5. The maximum sign area for two permitted signs shall not exceed 150 square feet. A single sign shall not exceed 100 square feet. Signs that have three or more sides shall not exceed a total of 150 square feet.
6. Projecting signs shall not be larger than 50 square feet in area.

C. Free-standing on-premises signs.

1. Only one free-standing on-premise sign shall be permitted for each lot, site, PUD, shopping mall or business center.
2. A business center, plaza, or shopping mall may have only one free-standing sign. The total area of this free-standing sign shall not exceed 100 square feet, plus three square feet per business, up to a total of 150 square feet.
3. A free-standing sign for an individual industry or business not part of a business center or shopping mall shall not exceed 100 square feet.

D. In the GC, CBD, MC, NC, IND-L, IND-RA and IND-H Districts, signs located inside a business use but visible from the outside of the building shall not be considered signs.

E. Flags. In the GC, CBD, MC, NC, IND-L, IND-RA and IND-H Districts, in addition to other signs permitted herein, flags are permitted, provided that:

1. Only one (1) such flag shall be permitted per business.
2. The size of such flags shall be no greater than three (3) feet by five (5) feet.
3. The flag is displayed only during hours when the principal use is open.
4. The height of any pole or support for such flag shall not exceed fifteen (15) feet.
5. The flag shall not project or hang over a public right-of-way, including the sidewalk and traveled way, unless the Zoning Administrator issues a permit for such a flag after determining that it will not intrude upon, infringe upon or cause a hazard to passers-by and/or the traveling public.

F. Projecting signs in CBD Districts. Because of building coverage and development density in the CBD District, businesses located therein may not be able to erect free-standing signs or projecting signs which do not hang over a public sidewalk. Thus, within the CBD District projecting signs may hang over a public sidewalk, subject to the following limitations:

1. A building may have no more than one such projecting sign for each building entrance which accesses a business located a sidewalk level.
2. No such projecting sign shall be larger in size than the smaller of the following:
  - A. Twelve (12) square feet if used to advertise only one business or sixteen (16) square feet if use to advertise more than one business; or,
  - B. The size allowed by Section 608.4.B(4).

If a projecting sign hangs only partly over a public sidewalk it may be as large as permitted by the other paragraphs of this subsection (Section 608.4), but the portion of the sign over the



public sidewalk shall not be larger than permitted above, and all other requirements of this paragraph (F) shall apply.

3. No part of any such projecting sign or the fixture to which it is attached shall be lower in height than eight feet six inches (8 feet 6 inches) from the sidewalk nor higher in height than fifteen(15)feet from the sidewalk. However, in no case shall any part of such a sign or fixture be located above the bottom of the second floor window sill.
4. No part of any such projecting sign or fixture to which it is attached shall project over a public sidewalk more than the greater of three (3)feet or fifty percent(50%)of the width of the public sidewalk, but in no case shall it extend more than six(6)feet over the sidewalk.
5. Such projecting signs shall not be illuminated.

**608.5 Temporary Signs.**

- A. Definition. For purposes of this Ordinance, a temporary sign is any sign which (a) is intended to be displayed for a reasonably short and definite period; (b) has the overall appearance of being intended to be displayed for a short and definite period; (c) is made of paper, cloth, canvas, plastic sheet, cardboard or similar impermanent materials; and (d) is not embedded in the ground or affixed to a structure embedded in the ground. No such temporary sign shall be erected for a period of greater than 6 months without a zoning permit.
- B. Permitted Temporary Signs. The following temporary signs are permitted on private property in those districts indicated below, without a zoning permit:
  1. One (1) temporary sign not exceeding twelve (12) square feet per lot in the R-1, R-2, R-3, RL-1, RL-2, RL-3, PB, RO-1, and R-O districts.
  2. One (1) temporary sign not exceeding twenty-four (24) square feet per lot in the IND-L, IND-H, IND-RA, NC, CBD, MC, and GC districts.
  3. For construction in progress, one additional temporary sign shall be permitted not to exceed 32 square feet in area. Such sign shall be removed within 30 days following completion of the project. These signs are permitted in all districts.
  4. On-premise promotional signs temporarily erected for special events sponsored by nonprofit organizations and not for advertising a business or service, not to exceed 40 square feet in area, which do not cross a road or right-of-way. The signs shall be erected not more than one month prior to the special event and shall be removed no later than two weeks after the event. This is permitted in all districts.
  5. A new business in the commercial or industrial district is permitted to display pennants, banners, flags and inflatable signs for a period not to exceed two weeks when the enterprise first opens for business or permanently closes so long as these temporary signs do not create a safety hazard.
  6. Sandwich board signs are permitted in CBD, GC, IND-L, IND-RA, NC and MC zones, subject to the following limitations:

- a. Sandwich board signs may not exceed three and one-half (3.5) feet in height or seven (7) square feet in area.
  - b. Only one sandwich board sign shall be allowed per lot or parcel, except for multi-tenant buildings and shopping centers, where not more than three such signs shall be displayed at any one time, and only during the hours that the business is open. It shall be the sole responsibility of the building or shopping center owner to: a.) allow the use of such signs; and b.) regulate and monitor said use in conformance with these standards.
  - c. In the CBD sandwich board signs may be placed on a public sidewalk for any building or use having a business storefront that is coterminous or within three (3) feet of the street. Such signs shall be placed within five (5) feet of the business storefront and shall comply with all applicable requirements herein including Section 608.5.B.6.a and b above, and Section 608.5.C below.
- C. Additional Requirements. The following requirements shall apply to any sign permitted under Section 608.5.B above:
  - 1. The sign shall not be located within the right-of-way of any public street or public sidewalk, except as permitted by Section 608.5.B.6.c above.
  - 2. The sign may not obstruct visibility or movement of vehicles or pedestrians, or otherwise cause any hazard to any person or property.
- D. Compliance. Any temporary sign displayed as of March 15, 2017 that is non-compliant with the requirements of Section 608.5 shall be removed within thirty (30) days.

**608.6 Bulletin Board.**

An on-premise bulletin board or announcement board not exceeding 24 square feet is permitted in connection with any church, school, nonprofit organization, public service agency or similar public structure. This is in addition to permitted signs.

**608.7 (Reserved)**

**608.8 General Requirements.**

- A. Construction and Maintenance: All signs must be constructed of durable materials and shall be maintained in good condition and repair at all times.
- B. Failure to Maintain: Any sign in disrepair shall be repaired. The Zoning Administrator shall give written notice of failure to maintain, and if the sign is not repaired within 30 days from the receipt of the notice, then the Zoning Administrator shall order the sign removed.
- C. Sign Setback: Notwithstanding any other provisions of this Ordinance, the provisions of Article II, "General Provisions," shall not prohibit the location of a sign in a front, side or rear yard, nor shall those yard setbacks apply to signs.
- D. Projecting Signs: Except as permitted in the CBD District pursuant to Section 608.4.F, no sign shall project over, intrude or infringe upon a public right-of-way,

including the sidewalk and traveled way, except flags approved pursuant to Section 608.4 E (5).

- E. Sign Height: Affixed or projecting signs shall not extend above the highest point of the main roof or parapet of the building or be affixed to a parapet no more than four feet above the roof of the building. The height of a free-standing sign shall not exceed 30 feet.
- F. Sign Illumination:
1. Fixtures used to illuminate signs shall be located, aimed, and shielded so as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Glare shall not be perceptible to drivers, pedestrians, bicyclists, and other passers by within adjacent streets or rights-of-way.
  2. Illumination by use of floodlights or spotlights used for external lighting of signs shall be mounted above the sign targeted for lighting, and illumination shall be properly focused upon and confined to the area of the sign.
  3. Illumination for internally lit signs shall be designed with an opaque background so that only the lettering, symbols (i.e., logos), or design shall appear to be lighted in order to produce no glare visible from adjacent streets or rights-of-way.
- G. Prohibited Signs: The following signs are prohibited:
1. Animated Signs. An animated sign is any sign that incorporates a technology or method allowing the sign or any component of a sign to change appearance without having to replace the sign or any component of the sign either physically or mechanically. This definition also includes a sign or any component of a sign that rotates, revolves, moves, blinks, flashes, and/or incorporates LED lights manipulated through digital input; and any illuminated sign or component of a sign which changes the intensity or color of illumination.
  2. Portable and/or mobile signs, except temporary sandwich board signs allowed pursuant to Section 608.5.B.6.
  3. No sign may be located within any public street or public sidewalk except as permitted by Section 608.5.B.6.c above or City Code Chapter 152, Article IV, nor may any sign obstruct visibility or movement of vehicles or pedestrians, or otherwise cause any hazard to any person or property.
- H. Clear Vision: No sign shall obstruct vision between a height of three feet and ten feet above the surface for the street on a corner, as prohibited by Section 206 of this Ordinance.
- I. Sign Permit Required: A zoning permit shall be obtained from the Zoning Administrator to erect any sign, except for those signs specifically exempted from obtaining a permit in Section 608.8 J below.
- J. Signs Exempted From These Regulations: The following signs are exempt from regulations and no zoning permit shall be required for their erection:

1. One sign per lot not exceeding one square foot in area, which does not pertain to a use or activity occurring on premises other than the premises on which the sign is located.
2. Signs on property owned by local, state or federal government, and erected by governmental authorities or their agents.
3. Legal notices, identification, informational, or directional signs erected as required by governmental authorities.
4. Signs directing or guiding traffic and parking on private property, where such signs have been approved as part of a site plan review by the Planning Board or by the Zoning Administrator upon demonstration that such signs are necessary for the safe and efficient movement of vehicles and pedestrians on the property.
5. Temporary signs allowed pursuant to Section 608.5 above.
6. Signs on awnings if the letters do not exceed the maximum of six inches in height. In the event that the letters are more than six inches in height, then such signs shall comply with all applicable requirements for signs.
7. Flags permitted pursuant to Section 608.4.E., except those flags which project or hang over a public street or public sidewalk.

**608.9 Legal Non-Conforming Signs.**

- A. Any sign located within the City on the date of September 7, 1988, which does not conform with this Ordinance, is a "legal non-conforming sign" if the sign was in compliance with applicable law at the time.
- B. A legal non-conforming sign shall lose its non-conforming status if:
  1. The sign is altered in a way which makes the sign substantially different from its structure prior to alterations.
  2. The sign is relocated.
  3. The sign is abandoned based on circumstances indicative of an intention to abandon the use and vested rights.
- C. Nothing in this section shall relieve the owner or user of a legal non-conforming sign or owner of the property on which the legal non-conforming sign is located from the provisions of this Ordinance regarding safety, maintenance and repair of signs, provided, however, that any repainting cleaning and other normal maintenance or repair of the sign or the sign structure shall not substantially change the sign structure in any way. The owner or user of legal non-conforming signs shall have the right to replace the structure of the sign so long as the structure is the same or is similar in function as the original structure and is in the same location. However, the illumination aspects of the existing sign shall not be considered lawfully nonconforming, and any new or replacement sign structures must comply with the current illumination requirements as stated in Section 608.8.F. of this Ordinance.

- D. Temporary signs that are non-compliant with the requirements of Section 608.5 as of March 15, 2017 shall not be considered legal non-conforming and must be removed in accordance with Section 608.5.D.

608.10 Noncommercial Signs and Messages.

Any sign authorized to be displayed by this Ordinance may contain a noncommercial message.

SECTION 609 SEXUALLY ORIENTED BUSINESS.

609.1 Purpose and Findings.

- A. Purpose. The purpose of this section is to establish reasonable regulations for Sexually Oriented Business in order to protect the health, safety and welfare of the Patrons of such businesses, and of the citizens of the City, and to prevent the deleterious siting of, and/or concentration of, Sexually Oriented Businesses within the City. It is not the intent of this section to limit the content of, or to restrict or deny adult access to, sexually oriented books, films or other materials protected by the First Amendment, or to deny access by distributors of such materials to their markets. Neither does this section condone or legitimize the distribution of obscene material.
- B. Findings. Evidence concerning the adverse secondary effects of sexually oriented businesses upon a community, including the findings incorporated in the U.S. Supreme Court cases of *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and *City of Erie v. Pap's A.M.*, 120 S.Ct. 1382 (2000), studies from communities throughout the United States, and evidence made available to the Planning Board and Council, all support the following findings:
1. Sexually Oriented Businesses have a deleterious effect on the area around them, causing downgrading of property values and blight.
  2. Patrons and Employees of Sexually Oriented Businesses – especially those with closed booths or other semiprivate areas, and those with live entertainment – engage in a statistically high incidence of sexually risky, unhealthy and unsanitary behavior, which increases the spread of sexually-transmitted and other communicable disease.
  3. Sexually Oriented Businesses cause an increase, in their vicinity, in the incidence of ancillary criminal behavior such as drug offenses, prostitution, sexual assaults, and criminal offenses involving children.
  4. In order to limit and control these adverse secondary effects, it is desirable to establish both location and operational criteria for such businesses, and to require supervision by the City by means of a special operational permit.

609.2 Setback Standards.

In addition to the other dimension requirements of this Ordinance, a Sexually Oriented Business shall meet the following setbacks with respect to any listed use, with distances to be measured in a straight line from the property line of any listed use to the closest

exterior wall of the Sexually Oriented Business, without regard to intervening structures or other features:

- A. No Sexually Oriented Business shall be permitted within 1000 feet of another Sexually Oriented Business. No Sexually Oriented Business shall be permitted within a building or Business Center that contains another Sexually Oriented Business.
- B. No Sexually Oriented Business shall be permitted within 750 feet of any house of worship or other property used principally for religious purposes, as set forth in RSA 72:23, III, or within 750 feet of any public, private or religious school (pre-school through high school levels), or of any licensed day care or day nursery, YMCA, youth center, City Hall, public park, public sports or recreation field, or similar publicly-owned facility.
- C. No Sexually Oriented Business shall be located within 500 feet of any residence or residential zoning district boundary.
- D. Compliance with these setbacks shall be determined based on the uses which exist, or for which a building permit has been applied, as of the time of submission of a complete application for a special operational permit under Section 609.4, including any new permit sought by an Operator following a prior revocation; provided, however, that compliance need not be re-established in the case of a renewal under 609.5(C).

#### 609.3 Operational Standards.

- A. No Operator or Employee of any Sexually Oriented Business shall allow or permit any Employee or Patron to engage in any Specified Sexual Activity on the premises of the business, including parking lots or streets adjacent to the business which are used by Patrons of the business.
- B. No Sexually Oriented Business shall allow or permit upon the premises any person under the age of 18, either as Patron or Employee.
- C. A Sexually Oriented Business which features any booth, room or other area used for the viewing of live performances, films, still or motion pictures, tapes, computer displays or other visual representations depicting Specified Anatomical Areas or Specified Sexual Activity – excluding adult motels, and adult cabarets or theaters designed to seat at least 15 persons –shall comply with the following,
  - 1. The business shall be laid out so that there is always a direct view – unobstructed by doors, partitions, curtains, walls, display racks or otherwise – of the interior of all booths, rooms or other areas to which Patrons are given access for any purpose, from a manager's station at which an Employee shall be on duty at all times during which any Patron is on the premises. Restrooms are excluded from this requirement only if they contain no images, pictures, or video reproduction equipment.
  - 2. The entire premises shall be lighted with fixtures of sufficient intensity to light all areas to which Patrons are given access at an illumination of at least one foot-candle, measured at floor level.
  - 3. No such booth or viewing room may at any time be occupied by more than one person.

4. Any such booth or viewing room shall have floors and walls of non-porous, easily cleanable surfaces, and shall be maintained at all times in a clean and sanitary condition. No such booth or viewing room shall contain any type of waste receptacle. No apertures or openings of any kind shall exist in the floor or walls of any such booth or room, or between any two such booths or rooms. An Operator shall inspect regularly enough to assure continued compliance with this paragraph.
- D. No sign for a Sexually Oriented Business shall include any image or depiction of, or linguistic reference to, nudity, Specified Anatomical Areas, Specified Sexual Activity, or any device or paraphernalia designed for use in connection with Specified Sexual Activity.
- E. No Specified Anatomical Areas, Specified Sexual Activity, or any device or paraphernalia designed for use in connection with Specified Sexual Activity, or any image or depiction of any of these, shall be visible in any way whatsoever from the exterior of any building where a Sexually Oriented Business is located.
- F. No Sexually Oriented Business, except an Adult Motel, shall remain open at any time between the hours of midnight and eight o'clock A. M.
- G. No Employee in a state of dress exposing Specified Anatomical Areas shall be closer than 10 feet from any Patron, shall touch a Patron or his or her clothing, or shall solicit or accept any pay or gratuity from a Patron.

**609.4 Special Operational Permit Required.**

No person shall operate a Sexually Oriented Business within the City unless the business has a currently-valid special operational permit issued by the Zoning Administrator. Application must be on a form provided by the City. The following information shall be provided:

- A. The names and signatures of all Operators and, if one or more Operators is a business entity, the legal business name of such Operator entity, and the name of every officer of such Operator entity, and of every person with more than a 20 percent interest in such Operator entity.
- B. Every Operator's age, mailing address, driver's license number, Social Security number and/or tax identification number, any alias, and proof that he or she is more than 18 years of age.
- C. The tax map number, street address and telephone number(s) of the proposed Sexually Oriented Business, the name(s) under which it will be operated, and a detailed diagram, drawn to scale and accurate to plus or minus six inches, of the entire premises, clearly labeling all areas and their uses, a statement of total floor space, the location of one or more manager's stations if required by 609.3(C), the location and intensity of all lighting fixtures, and designation of any areas where Patrons will not be admitted.
- D. A statement, with respect to each Operator, of whether that person, or any business entity in which that person has an interest, holds any license or land use or zoning permit to operate a Sexually Oriented Business in any other municipality or county, and if so the names and locations of any such other businesses.

- E. A statement of whether any Operator, or business entity in which any Operator has an interest, has ever had a license or permit to operate a Sexually Oriented Business denied, suspended or revoked, in this or any other municipality or county, including the name and location of the business for which the permit was denied, suspended or revoked, and the date or dates of such denial, suspension or revocation.
- F. A drawing, accurate to plus or minus 10 feet, prepared within 30 days prior to the application by a licensed land surveyor, and depicting the property lines and structures of any existing Sexually Oriented Business within 1100 feet of the proposed business, and showing the location of all uses listed in Section 609.2(B) and (C), and the property lines of such uses, any part of which is within 800 feet of the proposed business.

**609.5 Issuance, Suspension And Revocation.**

- A. The Zoning Administrator shall issue a special operational permit within 15 days after submission of a complete application if the applicant has provided all information required by this Section, the application is consistent with this Ordinance, and the fee under 609.6 is paid, unless
  - 1. Any of the information provided with the application is found to be materially false, or
  - 2. The building or premises proposed to be used for the business is not in compliance with applicable laws, Ordinances or codes, or
  - 3. Any Operator of the proposed business, or business entity in which any such Operator has an interest has had a license or permit to operate a Sexually Oriented Business revoked within two years of the date of the current application, or such license or permit is currently under suspension, either in this City or any other municipality or county.
- B. A permit shall not be transferable to any other Operator or Operators, nor to any other location.
- C. A permit shall expire within one year of issuance, subject to renewal upon updating of the information required by 609.4, and payment of the fee under 609.6.
- D. A permit shall be suspended for thirty days if, regardless of fault, the Sexually Oriented Business, or any Operator or Employee, violates or is out of compliance with any provision of this Section, including any refusal to allow an inspection.
- E. A special operational permit shall be revoked
  - 1. If any Operator is found to have knowingly submitted false or misleading information as part of the application process,
  - 2. If any Operator knowingly operates the Sexually Oriented Business during a time when the permit is suspended
  - 3. If the Sexually Oriented Business, or any Operator or Employee, regardless of fault, violates or is out of compliance with any provision of this Section, including any refusal to allow an inspection, and the permit was suspended at any time within the preceding twelve months,



4. If any Operator knowingly allows prostitution, or the sale, use or possession of any controlled drug, on the premises.

**609.6 Fees and Inspections.**

- A. Every application for a special operational permit for a Sexually Oriented Business shall be accompanied by an annual non-refundable application and inspection fee in an amount determined by the City Council.
- B. Every Operator or Employee shall permit authorized representatives of the Codes Division, Police Department, or Fire Department to inspect the premises of a Sexually Oriented Business for purposes of assuring compliance with the law, at any time it is occupied or open for business. Refusal of any Operator or Employee to permit any such inspection shall be a violation of this Section.

**609.7 Decisions and Appeals.**

- A. Any decision of the Zoning Administrator denying, suspending or revoking a special operational permit shall be in writing, stating the reasons therefor, and shall be served by certified mail to the mailing address of the business, or by personal service upon any Operator or Employee.
- B. Any administrative decision made under this Section may be appealed to the Zoning Board of Adjustment, as set forth in Section 801.1 of this Ordinance. The filing of such an appeal shall have the effect of staying any denial, suspension or revocation pending the outcome of the appeal, so long as no new ground for suspension or revocation occurs during the stay. Nothing in this Section shall be deemed to set aside any Site Plan Review requirement, or any other law, Ordinance or regulation, or to reduce or affect in any manner the City's authority to seek other enforcement remedies pursuant to Section 903 of this Ordinance, or as otherwise provided by law.

**609.8 Section Definitions.**

For purposes of this section:

- A. "Employee" means any person who performs any service on the premises of a Sexually Oriented Business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not the person is paid a salary, wage or other compensation by an Operator. "Employee" does not include a person on the premises exclusively to repair or maintain the premises or equipment, or for delivery of goods.
- B. "Operate" means to be an operator. "Operator" means any person who exercises discretionary authority or control over the layout, conduct or management of a Sexually Oriented Business, or who has more than a 20 percent interest in a Sexually Oriented Business, or more than a 20 percent interest in a business entity which has more than a 20 percent interest in a Sexually Oriented Business.
- C. "Patron" means any person on the premises of a Sexually Oriented Business, other than an Employee or Operator,
- D. "Sexually Oriented Business" means any place of business at which one or more of the following activities is conducted

1. Adult Bookstore Or Adult Video Store: A business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area for the display, sale or rental of: (a) books, periodicals or other printed matter, or photographs, films, cassettes, tapes, computer disks, CDROM's or other forms of visual or audio representations, describing or depicting Specified Anatomical Areas or Specified Sexual Activity, or (b) devices or paraphernalia which are designed for use in connection with Specified Sexual Activity.
2. Adult Arcade: Any place to which the public is permitted or invited, wherein live performances by persons exposing Specified Anatomical Areas are viewed through glass or other transparent or translucent surfaces, or where coin or slug-operated or electronically or mechanically controlled still or motion picture machines, computers, projectors or other image producing devices are maintained to show images, of which a substantial portion of the presentation time is characterized by the depiction of Specified Sexual Activity or Specified Anatomical Areas.
3. Adult Cabaret or Theater: A nightclub, bar, restaurant, theater, concert hall, auditorium or similar establishment, either indoor or outdoor, which during a substantial portion of the time features Employees exposing Specified Anatomical Areas, or features live performances characterized by the exposure of Specified Anatomical Areas, or which features films, motion pictures, tapes, computer displays or other visual representations, in which a substantial portion of the presentation time is characterized by the depiction of Specified Sexual Activity or Specified Anatomical Areas.
4. Adult Motel: A Hotel, Motel, Tourist Home, or similar business offering public sleeping accommodations for any form of consideration, and which provides patrons with closed circuit television, films, motion pictures, video cassettes, computer images or other audio or photographic reproductions, a substantial portion of the presentation time of which is characterized by the depiction of Specified Anatomical Areas or Specified Sexual Activities.
5. Sexual Encounter Center: A business or commercial enterprise that as one of its primary business activities offers for any form of consideration: (a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (b) activities between male and female persons and/or persons of the same sex, when one or more of the persons is exposing Specified Anatomical Areas.

E. "Specified Anatomical Areas" means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola, or
2. The human male genitals in a discernibly turgid state, even if completely and opaquely covered.

F. "Specified Sexual Activity" means:

1. Human sexual intercourse of any kind, oral sex, masturbation or sodomy, whether actual or simulated, and whether alone or between two people of either sex, or
2. Erotic touching or fondling of human genitals, pubic region, buttocks or female breast, or
3. Any act or conduct which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

## SECTION 610

## ACCESSORY DWELLING UNIT (ADU)

Accessory dwelling units are intended as an option for homeowners to offer separate and independent living space for their extended families, or to offer small dwelling units as rentals to offset the expense of maintaining the dwelling. The appearance and character of the existing or proposed new dwelling shall remain single family in nature. An accessory dwelling unit is only allowed on lots with a detached single family dwelling, and only one such accessory unit is permitted per lot. As an alternative, if allowed in the respective Zoning District, a property owner can seek a conversion of the unit to either a standard two-family or a multi-family dwelling.

If all of the following criteria are met, an accessory dwelling unit shall be allowed by special exception in all zoning districts where single family dwellings are allowed:

- A. The property owner must occupy either the primary residence or the ADU as their permanent residence. A temporary leave of absence by the property owner is allowed, provided the owner-occupied unit is not rented or occupied by anyone other than the property owner during the temporary leave or absence.

Prior to the issuance of a zoning/building permit, the owner shall record in the Grafton County Registry of Deeds an acknowledgment of the above owner-occupancy requirement, in a form satisfactory to the Zoning Administrator, in order to put prospective buyers on notice of the prohibition against renting out both units.

- B. The ADU must be located in the same building as the primary residence unless the lot meets or exceeds the minimum required lot size for the respective zoning district. If the lot meets or exceeds the required minimum lot size, the ADU may be located in a separate detached structure such as a garage or barn, provided the existing structure conforms with required yard setbacks for the respective zoning district. An ADU may also be in a new structure.
- C. If the ADU is located within or by an addition to the existing single family dwelling, an interior door shall be provided between the principal dwelling unit and the ADU.
- D. If the ADU is located within or by an addition to the existing single family dwelling, the ADU must be connected to the same utilities (except telephone and television) as the existing dwelling. If the ADU is located in a detached structure, then connections to municipal utilities (i.e. municipal water/sewer) must be separate.

If applicable, the owner must seek a permit from the State of NH Dept. of Environmental Services Subsurface Systems Bureau, in accordance with NH RSA 485-A:38, for any increased load on an existing sewage disposal system as a result of the addition of an ADU to the lot.

- E. If the primary residence is 1,500 square feet or less, the ADU may be no greater than 50% of the gross living area of the primary residence. If the primary unit is greater than 1,500 square feet, but less than 3,000 square feet, the ADU shall not exceed 750 square feet. If the primary unit is greater than 3,000 square feet, the ADU can exceed 750 square feet provided the ADU is no greater than 25% of the gross living area of the primary unit.
- F. A detached ADU, if permitted under paragraph B above, shall maintain a proportional mass, size, and height to ensure it is not taller than the primary residence on the lot. Detached ADU height shall not exceed the height of the primary residence as measured to the eave line, with a maximum eave height of ten (10) feet for single-story and sixteen (16) feet for two-story detached ADUs.
- G. Any necessary additional entrances or exits to the primary residence, to serve the ADU, shall be located to the side or rear of the building. All new or altered structures, intended to be used as an ADU, must be located behind the building line of the existing primary residence except when the Zoning Board finds that the placement of the ADU on the lot will not adversely affect the character of the neighborhood; traffic on roads and highways; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners.
- H. In addition to the two (2) on-site parking spaces required for the primary residence, one (1) additional on-site parking space for the ADU must be provided, and no more than two (2) ADU on-site spaces are allowed. The additional parking space shall comply with the parking standards contained in the Zoning Ordinance and the City of Lebanon's Driveway Regulations.
- I. A zoning/building permit application for the ADU must be approved and issued prior to its construction, and a certificate of occupancy, specifying that the dwelling unit is an ADU, must be obtained prior to its occupancy. The ADU constructed within a primary residence shall have an interconnected fire alarm system. All ADU's shall meet all life safety and building codes.

## SECTION 611      THE KEEPING OF HENS.

The intent and purpose of this section is to allow the keeping of a limited number of hens, primarily for the purpose of providing fresh eggs to the occupants of the dwelling.

The keeping of hens shall be permitted for all one- and/or two-family dwellings, provided the following standards are met (these standards do not apply to hens kept in the rural lands zoning districts where agriculture is a permitted use):

- A. It shall be unlawful to keep more than the following number of hens on any tract of land:

Up to 2 acres	up to a total of 4 hens
2 to 5 acres	up to a total of 10 hens
More than 5 acres	up to 2 hens per acre
- B. No hens shall be allowed in multi-family dwellings.
- C. No roosters shall be allowed.
- D. There shall be no outside slaughtering of hens.
- E. All hens shall be kept outdoors within a secure enclosure at all times. The secure enclosure and coop shall be maintained in a humane and sanitary manner.

- F. The secure enclosure and the coop shall comply with minimum yard setbacks for the respective zoning district, and shall not be located within the dwelling's front yard. A zoning permit must be obtained prior to the construction of the enclosure, coop, and the keeping of hens.

#### SECTION 611A BEEKEEPING.

The keeping of bees and the maintenance of apiaries shall be in accordance with all current New Hampshire Department of Agriculture regulations and the following provisions (the standards below do not apply to beekeeping in the rural lands zoning districts where agriculture is a permitted use):

- A. Notwithstanding compliance with the various requirements of this section of the Zoning Ordinance, a beekeeper shall be prohibited from keeping any colony or colonies of bees in such a manner or of such disposition as to create a nuisance or menace to the public health and safety or to interfere with the normal use and enjoyment by persons and animals of any public or private property.
- B. The Raising or Keeping of Bees shall be permitted for all one- and/or two-family dwellings on properties with a minimum lot size of one (1) acre as follows:
1. On properties containing between one (1) and three (3) acres, beekeeping shall be allowed by Special Exception upon demonstration of compliance with the criteria set forth in this section.
  2. On properties containing over three (3) acres, beekeeping shall be allowed upon approval of a zoning permit.
- C. Development Standards.
1. Allowed Densities. It shall be unlawful to keep more than the following number of colonies on any tract of land:

1 to 2 acres	up to 6 hives
2 to 5 acres	up to 8 hives
More than 5 acres	up to 2 hives per acre
  2. Location of Hives on a Lot. Any structure used for apiculture shall comply with the following yard and setback requirements:
    - a. Hives shall be located in the side or rear yard and shall not be located in the front yard.
    - b. Hives shall be located at least 15 feet from any property line, subject to the requirements of sub-section (3)(c) below ("Flyway Barriers").
  3. Flyway Barriers. In each instance in which a hive is situated within 30 feet of a property line, as measured from the nearest point of a hive to the property line, the beekeeper shall establish and maintain a flyway barrier in the following manner so that all bees are forced to fly at an elevation of at least 6 feet above ground level over the property lines in the vicinity of the apiary:
    - a. Height: shall be no less than six feet in height
    - b. Material: shall consist of a solid wall, fence, dense vegetation or combination thereof.

- c. Location: shall be parallel to the property line, within 15 feet of the colony and extending at least 10 feet beyond the colony in each direction.
4. Hive Type. All hives shall be of the movable frame type, as accepted by the State of New Hampshire Department of Agriculture, Markets and Food, Division of Plant Industry.
5. Water. A convenient and consistent source of fresh water shall be made available to the bees at all times during the year. Water shall be located within twenty (20) feet of all hives or no more than one-half (1/2) the distance to the nearest property line, whichever distance is less.

## SECTION 612      RENEWABLE ENERGY SYSTEMS.

612.1 Authority and Purpose. These regulations are enacted in accordance with RSA 674:17, I(j) and RSA 674:62-66, and the purposes outlined in RSA 672:1, III-a. The purpose of this ordinance is to accommodate and encourage renewable energy systems and distributed generation resources in appropriate locations, while protecting the public's health, safety and welfare. The City of Lebanon intends to facilitate the state's goals of developing clean, safe, renewable energy resources in accordance with the enumerated policies of RSA Chapters 374-G and 362-F and the City's energy goals set forth in its Master Plan.

612.2 Accessory Renewable Energy Systems and Accessory Wind Energy Systems. Accessory renewable energy systems and accessory wind energy systems are allowed in all zoning districts.

### A. General Requirements.

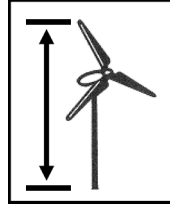
1. No accessory renewable energy system or accessory wind energy system shall be erected, constructed, or installed without first receiving zoning and building permits.
2. Accessory renewable energy systems are subject to the dimensional regulations for the zoning district in which the system is located, except as may be provided in Section 201.9 and 203.1. Accessory wind energy systems are subject to the dimensional regulations for the zoning district in which the system is located, except as may be provided in Section 203.3.

### B. Accessory Wind Energy Systems. This ordinance is enacted in accordance with RSA 674:62-66.

1. Generating Capacity: The accessory wind energy system shall have a rated capacity of not more than 100 kilowatts.
2. Abutter and Regional Notification: The applicant shall supply a list of abutters to the property to the Zoning Administrator upon application for a zoning permit. The Zoning Administrator shall notify all abutters by certified mail at the applicant's expense. The public shall be afforded 30 days to submit comments prior to issuance of the building permit. If the proposal is determined to have potential regional impacts, the Zoning Administrator shall follow the procedures set forth in RSA 36:57, IV.

3. Setbacks: The minimum required setback distance, measured from the center of the tower base to the property line, shall be 110% of the system height (ground to blade tip as illustrated). For example, the setback for a 100-ft. facility would be 110 feet.

Illustration of system height.



4. Noise Limit: The sound from the system shall not exceed 55 decibels using the A scale (dBA) measured at the property line in accordance with the methodology described in Section 303A.6.B, except during short term events such as severe wind storms or utility outages.
5. Signs: There shall be appropriate signs warning the public that unauthorized access may cause injury or death. Such signs are not to exceed two (2) square feet in size and posted five (5) feet above grade on or near the tower, and shall be oriented to not adversely impact sight lines.
6. Access: The tower shall be constructed as a tilt-down or shall not provide step bolts or ladder readily accessible to the public for a minimum height of eight (8) feet.

**C. Accessory Solar Energy Systems.**

1. Building-mounted or roof-mounted systems are permitted.
2. The accessory solar energy system shall be designed and located to the greatest extent practicable to avoid glare or reflection onto adjacent properties, roadways, and runways, and shall not create a safety hazard.

**612.3 Non-Accessory Renewable Energy Systems.**

- A. Non-accessory solar energy systems, bio-gas energy systems, and district energy systems shall be permitted as specified in Table 612.3.

**Table 612.3 Renewable Energy System Zoning District Regulations**

<b>SYSTEM TYPE</b>	<b>ZONING DISTRICT</b>	<b>PERMITTED or CUP</b>
Building-mounted solar energy system	All	Permitted*
Ground-mounted solar energy system	All	Conditional Use Permit*
Bio-gas energy system	IND-L, IND-H, IND-RA, GC	Conditional Use Permit
District energy system	All**	Conditional Use Permit*

\*If located within the Historic District, a Certificate of Approval from the Heritage Commission in accordance with Section 408 shall also be required.

\*\*Permitted in the RL-1, RL-2, and RL-3 Districts when approved as part of a PURD pursuant to Section 501.

B. General Criteria.

1. No NA renewable energy system shall be erected, constructed, or installed without first receiving a zoning and building permit.
2. Renewable energy systems shall be designed and located to the greatest extent practicable to avoid glare or reflection onto adjacent properties, roadways, and runways, and shall not create a safety hazard.

C. Conditional Use Permits. If required per Table 612.3, a renewable energy system shall obtain a Conditional Use Permit (CUP) prior to construction and installation. The CUP shall clearly set forth all conditions of approval and shall list all plans, drawings and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submittal that is listed on the CUP shall be considered to be a condition of approval.

1. Procedure. An application for a renewable energy system CUP shall be filed with the Planning Board concurrently with an application for site plan review.
2. Standards of Review. Following a fully noticed public hearing on the proposed use, the Planning Board may issue a CUP, if it finds, based on the information and testimony submitted with respect to the application, that:
  - a. The renewable energy system in its proposed location will comply with all requirements of the Site Plan Review Regulations;
  - b. The renewable energy system will not materially endanger the public health or safety; and
  - c. The renewable energy system meets the general criteria set forth in Section 612.3.B.
3. The Planning Board may require a reasonable setback from the side and front lot lines for a renewable energy system located in the Central Business District.

SECTION 613      ALTERNATIVE TREATMENT CENTERS

613.1 Purpose.

The purpose of this section is to establish reasonable regulations for an Alternative Treatment Center in accordance with RSA 126-X and to protect the health, safety, and welfare of the patrons of such businesses, and of the citizens of the City, and to prevent the deleterious siting of an Alternative Treatment Center within the City.

613.2 Setback Standards.

In addition to meeting the minimum standards enacted by RSA 126-X, an Alternative Treatment Center shall meet the following setbacks with respect to any listed use, with distances to be measured in a straight line from any listed use to the nearest portion of the building or unit in which an Alternative Treatment Center is located, without regard to intervening structures or other features:

- A. An Alternative Treatment Center shall not be located within 1,000 feet of the property line of a pre-existing public or private elementary or secondary school or designated drug free school zone.



- B. An Alternative Treatment Center shall not be located in or within 1,000 feet of the property line of a pre-existing public playground, public park, pool, or recreation facility.
- C. An Alternative Treatment Center shall not be located in or within 1,000 feet of the nearest portion of any building containing a pre-existing place of worship or religious assembly, or any building containing a pre-existing child care center, including any enclosed or fenced-in playground area directly associated with such child care center.
- D. An Alternative Treatment Center shall not be located in a residential district or within 500 feet of a district zoned: R-1, R-2, R-3, RO, RO-1, PB, RL-1, RL-2, or RL-3.
- E. An Alternative Treatment Center shall not be located in a residential unit or a building which contains a residence.
- F. An Alternative Treatment Center shall not be considered an Office use for purposes of this Zoning Ordinance.

## ARTICLE VII

### NON-CONFORMITIES

#### SECTION 700      GENERAL.

Any building or structure, or any use of any building, structure, or land, which was in existence at the time of the adoption of this Ordinance, or any amendment thereto and which does not conform to the current provisions of this Ordinance, shall be considered non-conforming and may be continued indefinitely without complying with the provisions of this Ordinance, if such use, building, or structure, at the time it came into existence, was in compliance with all applicable laws, Ordinances, and regulations then in effect, subject to the provisions of this Article. Any uncertainty over the application of this Article to particular property shall be resolved by administrative decision made by the Zoning Administrator. Such an administrative decision may be appealed to the Zoning Board of Adjustment under Section 801.1

#### SECTION 701      NON-CONFORMING LOTS.

A new use or structure, or addition to an existing structure, *if otherwise* allowed by this Ordinance, may be established on a lot which has frontage meeting the requirements of RSA 674:41 and which was a legal lot-of-record as of the date of adoption or amendment of this Ordinance even though such lot fails to meet the minimum area, frontage or width requirements of this Ordinance; provided, however, that such lots shall be subject to all other requirements of this Ordinance; and provided, further, that if the owner of the lot also owns contiguous land which, if merged with the lot in question would cause the legal lot-of-record to be either conforming or less non-conforming with respect to area, frontage and width requirements, then such use, structure or addition shall not be permitted unless the lots are voluntarily merged under RSA 674:39-a.

#### SECTION 702      NON-CONFORMING USES.

##### 702.1      Change of Use.

A conforming use shall not be changed to a non-conforming use. A non-conforming use may, as a special exception, be changed to another non-conforming use provided that the Board of Adjustment shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use.

##### 702.2      Resumption of Use.

Any non-conforming use shall not be re-established if such use has been discontinued for a period of two (2) years; provided, however, that the Zoning Board of Adjustment, upon an appeal from the Zoning Administrator's decision concerning such discontinuance, may permit the re-establishment of the same use if it finds: (a) that no action incorporating an intent to abandon the non-conforming use has been taken by the owner or occupant, including but not limited to a change to a permitted use or razing or remodeling of a building; and (b) that the failure to continue or re-establish the use during the two-year period was due to economic, regulatory or other forces beyond the control of the owner or occupant.

##### 702.3      Restoration of Use.

Any non-conforming use, except signs, may be restored after involuntary damage from any cause provided the same non-conforming use is reinstated within two years of such damage. If the reconstruction of the premises is not substantially completed within two years, the non-conforming use of such building shall be deemed to have been

discontinued, unless such non-conforming use is carried on without interruption in an undamaged part of the building.

#### 702.4 Moving of Use.

No non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption of this Ordinance or amendment thereto.

#### 702.5 Expansion of Use.

- A. The Zoning Board of Adjustment may, by special exception, permit a non-conforming use to be altered or expanded, provided that the following tests, as set forth by the New Hampshire Supreme Court, are met in lieu of Section 801.3:
  - 1. The proposed alteration or expansion must reflect the nature and purpose of the existing non-conforming use, and must be closely related to the manner in which the property was used at the time the restriction was enacted.
  - 2. The proposed alteration or expansion must be merely a different manner of utilizing the same use, and shall not constitute a use which is different in character, nature, or kind.
  - 3. The proposed alteration or expansion shall not have a substantially different effect on the neighborhood in which the property is located.
  - 4. In the case of non-conformities with respect to dimensional or numerical requirements, the proposed alteration or expansion shall not render the property proportionally less adequate, in terms of the requirement to which the property does not conform.
- B. The Board of Adjustment may attach conditions and parameters to its decision, as set forth in Section 802.4(B), to assure that the scope of the alteration or expansion continues to meet the standards set forth in Paragraph A above.
- C. In no case shall a non-conforming use be allowed to expand into a new building, or into a building whose use is conforming.

### SECTION 703 NON-CONFORMING BUILDINGS AND STRUCTURES.

#### 703.1 Expansion.

Expansion of non-conforming parts of buildings or structures, may be allowed only by special exception as set forth herein. For purposes of this section, the term "expansion" shall include any increase in the footprint and/or volume of the non-conforming part of the building or structure.

- A. The Board shall make each of the following findings:
  - 1. The reasonable use of abutting properties shall not be adversely affected by the proposed expansion.
  - 2. The proposed expansion shall not render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently non-conforming cannot be made more non-conforming in the absence of a

variance.

3. These special exception standards shall apply in addition to the standards in Section 801.3 of the Zoning Ordinance.

- B. Those parts of any non-conforming building or structure which are conforming may be expanded provided the expansion is conforming and the use is not changed.

#### 703.2 Abandonment, Discontinuance, Destruction.

Any non-conforming building or non-conforming structure which is partially or wholly destroyed by reason of any cause whatsoever, including obsolescence, fire, explosion, storm, floods, or other acts of God, may be resumed or restored and operated in its former non-conformity if same is done within two (2) years; thereafter, any non-conforming building or structure shall not be re-established if such building or structure has been discontinued for a period of two (2) years or more; provided, however, that the Zoning Board of Adjustment, upon an appeal from the Zoning Administrator's decision concerning such resumption or restoration, may permit the resumption or restoration of the same building or structure if it finds: (a) that no action incorporating an intent to abandon the non-conforming building or structure has been taken by the owner or occupant, including but not limited to a change in non-conforming use to razing or remodeling the building or structure; and (b) that the failure to resume or restore the use during the two-year period was due to economic, regulatory, or other forces beyond the control of the owner or occupant.

#### SECTION 704 PRE-EXISTING USES THAT ARE SPECIAL EXCEPTIONS OR CONDITIONAL USES.

Any use which existed prior to the adoption of this Ordinance or amendment thereto which is allowed as a **special exception** or **conditional use** by this Ordinance shall not be deemed a non-conforming use, but shall, without further action be deemed a conforming use. Expansions of such uses shall be governed by Section 801.3 ("Special Exceptions") or by Section 302.4 ("Conditional Uses") rather than Section 702.5.

#### SECTION 705 PRIOR UNLAWFUL USES.

Nothing in this Ordinance or section shall validate any use which was declared unlawful or was prohibited by any prior zoning Ordinance of the City of Lebanon whether or not such unlawful or prohibited use had been prosecuted prior to, or at the time this Ordinance became effective, and no such unlawful or prohibited use shall be deemed conforming under the terms of this Ordinance.

## ARTICLE VIII

### BOARD OF ADJUSTMENT

#### SECTION 800      ESTABLISHMENT OF BOARD OF ADJUSTMENT.

The Board of Adjustment, as established, is hereby continued as such. The word "Board" when used in this section shall be construed to mean the Board of Adjustment.

##### 800.1      Membership.

The Board shall consist of five (5) members appointed by the City Council, each to be appointed for three (3) years. The terms shall be arranged so that no more than two (2) appointments occur annually.

##### 800.2      Alternate Membership.

The City Council may appoint not more than five (5) alternate members to the Board.

##### 800.3      Meetings.

Regular and special meetings of the Board shall be held at the call of the chairman or of a majority of the members of the Board at such time as the chairman or majority of the members of the Board may determine. The presence of three (3) members shall be necessary for a quorum.

##### 800.4      Organization.

- A.      Rules of Procedure: As required by NH RSA 676:1, the Board shall adopt Rules of Procedure.
- B.      Minutes: The City's Recording Secretary shall keep minutes of the proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating the fact.
- C.      Annual Election of Officers: The Board shall annually elect a Chairperson and Vice-Chairperson.

#### SECTION 801      POWERS AND DUTIES.

The powers and duties of the Board shall be as prescribed by NH RSA 674:33, as amended. The powers and duties are:

##### 801.1      Administrative Appeals.

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by any administrative official in the enforcement of this Ordinance, as set forth in RSA 676:5. In exercising this power, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken.

An appeal under this section shall be taken within 30 days of the date of the administrative decision being appealed, or within 30 days of the time that the person filing the appeal knew or had reason to know that the administrative decision had been made. The effect of an appeal shall be as set forth in RSA 676:6.

#### 801.2 Variances.

- A. To authorize, upon appeal in specific case, variances from the terms of this ordinance. No variance shall be granted unless each of the following conditions are met:
1. The variance will not be contrary to the public interest;
  2. The spirit of the ordinance is observed.
  3. Substantial justice is done;
  4. The values of surrounding properties are not diminished; and
  5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
- (a) In this section "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
  - (ii) The proposed use is a reasonable one.
- (b) If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformity with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. The definition of "unnecessary hardship" set forth above shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.
- B. The above standards shall be administered in such a way as to fulfill the statement of intent of the Legislature in Chapter 307 of the N.H. Laws of 2009, and the construction placed upon the standards by the N.H. Supreme Court.
- C. A variance shall expire if: (1) the use is not in place within two years of the date of issuance of a zoning permit or approval by the Zoning Board of Adjustment for a variance; or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a variance must be completed.

#### 801.3 Special Exceptions.

To hear and decide special exceptions to the terms of this Ordinance upon matters which the Board is required to pass under this Ordinance. In passing upon any application for a special exception, the Board shall make each of the following findings:

- A. That the special exception is specifically authorized by a provision of this Ordinance.

- B. That all special conditions required of the special exception have been met.
- C. That there are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy.
- D. That the character of the area shall not be adversely affected.
- E. That no hazard or nuisance will be created.
- F. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
- G. That granting the special exception will not result in undue municipal expense.
- H. That the proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.
- I. That the general welfare of the City will be protected.

A special exception shall expire if: (1) the use is not in place within two years of the date of issuance of a zoning permit or approval by the Zoning Board of Adjustment for a special exception or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a special exception must be completed.

#### 801.4 Other Matters.

- A. To hear and decide such other matters as are lawfully referred to them by other Ordinances of the City.
- B. To authorize equitable waivers of dimensional requirements if the applicant satisfies the burden of proof upon all criteria set forth in RSA 674:33-a.
- C. Notwithstanding Section 801.2, the Board of Adjustment may grant a variance from the terms of this Ordinance without a finding of hardship arising from the condition of the premises and without meeting the other standards of Section 801.2 when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that: (i) any variance granted under this paragraph shall be in harmony with the general purpose and intent of this Ordinance; and (ii) in granting any variance under this paragraph, the Board of Adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.

### SECTION 802 BOARD PROCEDURES.

#### 802.1 Applications.

Applications to the Board for an administrative appeal, variance, special exception or equitable waiver shall be made on forms provided by the Board in compliance with procedures established by the Board.

- A. Fees: The application shall be accompanied by whatever fees are required by the Board to defray the costs.

- B. Plans and Information: The application shall be accompanied by whatever plans and other information are required by the Board.
- C. In all cases, the applicant shall provide, either as part of the application or through evidence at the public hearing, information sufficient to demonstrate that the application conforms to the criteria as set forth in this Ordinance for the type of appeal or relief being requested. The decision of completeness of an application shall be made by the Board of Adjustment.
- D. Environmental Impact Assessment: The Board may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this section. The cost of this assessment shall be borne by the applicant.
- E. Special Studies: The Board shall have the right to require that the Applicant pay necessary and reasonable fees to cover expenses for the costs of investigative studies, review of documents, and other matters that may be required by particular applications.

Before imposing such additional fees upon an Applicant, the Board shall determine what special investigative studies, review of documents, or other matters are required for the application. The Board, by motion, shall determine the necessity of additional review and shall provide the applicant with an estimated cost of such additional review. The Board shall require the Applicant to pay the amount of estimated fees to the City in advance. Failure to pay the additional review fee may result in disapproval of the application for lack of adequate information. If the estimate of the additional fees is less than the actual cost, then the Board shall send the Applicant a description and the reasons for the additional cost. The Applicant shall then pay the total actual costs. If the estimate of the additional fees is greater than the actual cost, the difference shall be refunded to the Applicant.

In the event that it is necessary for the City to take legal action against an Applicant to collect unpaid fees, the City shall be entitled to an award of reasonable attorney's fees incurred in collection of the unpaid amount.

#### 802.2 Hearings and Notice.

The Board shall hold a public hearing on each application.

- A. Abutters Notice: The applicant and all abutters shall be notified of the public hearing by certified mail. Such notice shall be given not less than five (5) days no more than thirty (30) days before the date of the hearing.
- B. Public Notice: A public notice of the hearing shall be posted in at least two (2) public places and shall be published in a newspaper of general circulation in Lebanon not less than five (5) nor more than thirty (30) days before the date of the hearing.

#### 802.3 Hearing Procedure.

All hearings shall be conducted in accordance with the Rules of Procedure adopted by the Board.

- A. Witnesses: The Chairman shall have the power to administer oaths and compel the attendance of witnesses.



- B. Testimony: The Board shall hear all abutters who desire to testify and all non-abutters who can demonstrate that they are affected directly by the application under consideration. The Board may hear such others as it deems appropriate.
- C. Burden of Persuasion: The applicant bears the burden of introducing sufficient evidence, through testimony or otherwise, to persuade the Board that the application should be granted.
- D. Conflicts of Interest: Conflicts of interest are governed by RSA 673:14. No member of the Board shall sit upon the hearing of any question which the Board is to decide in a judicial capacity if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualifications do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties. If a member is disqualified or unable to act in any particular case pending before the Board, the chairman shall designate an alternate to act in his place.
- E. Joint Hearings with Planning Board: In accordance with NH RSA 676:2, as amended, the Board of Adjustment and the Planning Board may hold joint meetings and hearings when the subject matter of an application is within the responsibilities of both Boards. Each Board shall be responsible for rendering a decision on the subject matter which is within its jurisdiction.

#### 802.4 Decisions of the Board.

In exercising its powers the Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order, or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken.

- A. Majority Vote: The concurring vote of 3 members of the Board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant or any matter on which it is required to pass.
- B. Special Conditions: In granting any appeals, variances, or special exceptions, the Board may attach whatever conditions it deems necessary to the approval decision in order to assure compliance with the purposes of this Ordinance. Such conditions may include but are not necessarily limited to:
  - 1. Increasing the required lot size or yard dimensions in order to protect the adjacent properties.
  - 2. Limiting the coverage or height of building because of obstruction to view and reduction of light and air to adjacent properties.
  - 3. Controlling the location and number of vehicular access points to the property.
  - 4. Increasing the street width adjacent to the property.
  - 5. Increasing the number of on-site off street parking or loading spaces required.
  - 6. Requiring suitable on-site landscaping and screening where necessary to

reduce noise and glare and to maintain the property in character and keeping with the surrounding area.

7. Specifying a time limit for initiation of construction, alteration, or enlargement of a structure to house an exception.
8. Providing for specific layout of facilities on the property such as location of the building, parking areas, access to the building so as to minimize effect on adjoining property.
9. Specifying standards for operation of this special exception so that it will be no more objectionable to the neighborhood by reasons of noise, odors, vibrations, flashing lights or hours of operation than will be the operation of a permitted use at that site.
10. Specifying the length of time of the special exception and time of occupancy during the year, or hours of operation.

C. Issuance of Decision.

1. Written Decisions: The Board shall issue a written decision which either approves or disapproves any application for an appeal of an administrative decision, a variance, a special exception, an equitable waiver, or any other relief. The decision shall provide written reasons for either an approval or disapproval, making reference to the applicable Ordinance provisions or criteria involved. The written decision shall be prepared, deliberated, and put into final form by the Board prior to the final vote on the application.
2. Filing of Decisions: Whenever the Board issues a decision, it shall be placed on file with the City Clerk and made available for public inspection within 144 hours after the decision is made.

802.5 Rehearings and Appeals.

As provided by NH RSA 677:2, as amended, within 30 days after any order or decision of the Board, any party to the action or proceeding or any person directly affected by it may apply for a rehearing.

A rehearing may be granted if in the opinion of a majority of the Board there is good reason therefor, such reasons including, but not limited to: (1) the petitioner has new, relevant evidence to submit; (2) the petitioner raises new, relevant legal issues that were not considered at the original hearing; or (3) the Board feels it may have made a prejudicial technical or legal error in its original decision.

The Board shall either grant or deny a rehearing within thirty (30) days of receiving the request or may suspend the order or decision complained of pending further consideration. Any order of suspension may be upon such terms and conditions as the Board may prescribe. Appeals to the NH Superior Court may be taken pursuant to NH RSA 677:4, as amended, within thirty (30) days after the action complained of has been recorded.

## ARTICLE IX

### ADMINISTRATION AND ENFORCEMENT

#### SECTION 900            ZONING ADMINISTRATOR.

The administrative and enforcement officer for this Ordinance shall be known as the Zoning Administrator who shall be appointed by the City Manager. The Zoning Administrator shall administer the Zoning Ordinance literally and shall not have the power to permit any use of land or buildings which is not in conformance with this Ordinance. If a vacancy exists in the office of the Zoning Administrator or the Zoning Administrator is unavailable, the City Manager shall perform these duties or appoint an acting Zoning Administrator.

#### SECTION 901            ZONING PERMITS.

##### 901.1    General.

Written application for a zoning permit must be filed by the owner or his agent with the City of Lebanon for any of the following. Until such a permit has been received, none of the following shall be commenced:

- A.     The erection or use of any new building, exterior sign, or other structure.
- B.     The alteration, renovation, restoration, or moving of any building, structure, exterior sign or part thereof, except that ordinary repairs to structures may be made without a zoning permit. Ordinary repairs shall include any renovation, upgrade, or repair to (i) a one or two family dwelling that does not increase floor area or volume and where no additional dwelling unit is proposed; and (ii) a non-residential building that does not increase floor area or volume and where no change of use is proposed.
- C.     A home business.
- D.     Temporary uses, as provided by SECTION 211.
- E.     Any use of premises, whether or not provided for in this Ordinance, including but not limited to a change in the nature of the use of any building or premises to a non-conforming use from any lawful prior use, the expansion of any existing lawful non-conforming use, or any change in lot size or shape.

##### 901.2    Application Requirements.

Application for a zoning permit shall be upon an appropriate form to be prescribed by the City and shall be accompanied by:

- A.     Plans, drawn to scale, showing the actual shape, dimensions, and location of the lot to be used, of existing buildings, and of proposed new buildings or structures.
- B.     Information as to the existing and intended use of each building, lot or part thereof, and as to the number of families, lodgers, or other occupants which any building upon the premises is designed to accommodate.
- C.     A copy of the plans and information described above shall also be submitted to the City Planner or his or her designee for review in accordance with the provisions of Article III of the City of Lebanon Site Plan Review Regulations.

### 901.3 Approval or Denial.

The Zoning Administrator shall determine whether an application for a permit is in compliance with this Ordinance. If the Zoning Administrator determines that it is, the application shall be approved and a zoning permit issued. If the Zoning Administrator determines that it is not, the application shall be denied. The Zoning Administrator shall act upon any application within 30 days after it has been filed.

### 901.4 Scope of Permit.

Issuance of a zoning permit pursuant to this Ordinance constitutes approval by the City of the proposed use only under the requirements of this Zoning Ordinance. The owner shall continue to be responsible for compliance with all other applicable City Ordinances or federal or state laws, including but not limited to the Environmental Quality Act, the NH Shoreland Protection Act, and the state building code.

### 901.5 Building Permit.

The issuance of a zoning permit shall precede or be in conjunction with the issuance of a building permit.

### 901.6 Time Limit of Permit.

A zoning permit shall become void if construction is not begun thereunder within 2 years from the date of issuance of the permit or grant of a special exception or variance.

### 901.7 Date of Issuance of Zoning Permit.

On approval by the Board of Adjustment of an administrative appeal, variance or special exception, the Zoning Administrator shall issue a zoning permit as of the date of approval of the Board of Adjustment. Zoning permits shall be conditioned upon receipt of Site Plan Review approval from the Planning Board, when such approval is required. When Site Plan Review is required, the date of the zoning permit for the purposes of SECTION 901.6 shall be the date of receipt of Site Plan Review approval.

### 901.8 Revocation.

If any use or structure is begun or erected which does not conform to this Ordinance, or to the provisions of any permit, decision, special exception, or variance issued under this Ordinance, the Zoning Administrator, in addition to other types of enforcement authorized by law, may revoke the zoning permit. Such a revocation may be appealed to the Zoning Board of Adjustment as an Administrative Appeal pursuant to Section 801.1; however the permit shall remain revoked pending the outcome of such appeal.

## SECTION 902 OCCUPANCY.

No building or structure shall be occupied except in conformance with this Ordinance. The Building Inspector shall not issue a Certificate of Occupancy for any building or structure that has not received a zoning permit and that is not in conformity thereto.

## SECTION 903

## ENFORCEMENT.

### 903.1 Enforcing Authority.

This Ordinance shall be enforced by the Zoning Administrator. It shall be the duty of the Zoning Administrator to enforce all of the requirements set forth herein, to the fullest extent provided by the laws of the City and of the State of New Hampshire.

### 903.2 Notice of Violation.

The Zoning Administrator may issue a notice of violation personally, or through Municipal Counsel.

### 903.3 Penalties and Remedies.

The Zoning Administrator shall institute, in the name of the City, any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate any violation of this Ordinance or to prevent in or about the premises any act, conduct, or use constituting a violation, and shall have all enforcement powers provided by statute including but not limited to RSA 676:15, 676:17, 676:17-a, and 676:17-b.

### 903.4 Injunctive Relief.

In addition to other remedies provided by law, the Zoning Administrator acting through municipal counsel may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent or abate or remove erections, construction, alterations or reconstructions that are in violation of this Ordinance.

### 903.5 Recovery of Legal Costs.

As permitted by NH RSA 676:17, as amended, the Zoning Administrator shall seek to recover all costs and attorney's fees in any legal action necessary to enforce these regulations.

## ARTICLE X

### MISCELLANEOUS PROVISIONS

#### SECTION 1000      ZONING ORDINANCE AMENDMENTS

1000.1 Amendments to either the zoning map or other provisions of the zoning Ordinance may be proposed and enacted by following procedures described herein (RSA 675:2).

#### 1000.2      Source of Proposed Amendments.

Amendments may be proposed as follows:

- A. From the City Council at any time.
- B. From the City Council upon request by any Board or City official when the Council decides that it is appropriate to go forward with such amendment.
- C. By petition of any number of voters, provided however, that unless the petition is submitted utilizing the "Citizens Binding Initiative" procedure contained in Section 419:23a of the Lebanon City Charter, it will be within the sole discretion of the City Council as to whether or not to proceed in any way with the requested amendment.
- D. A petitioned amendment submitted under Paragraph C above may be filed at any time. However, if a petition not meeting the requirements for the Citizens Binding Initiative procedure is submitted between August 1 and October 1 of any year, the Council shall put the proposed amendment on its agenda and determine, prior to December 1 of that year, whether or not to schedule the amendment for review and hearing pursuant to Section 1000.3. The purpose of this paragraph is to enable the potential filing of a Citizens Binding Initiative petition in time for the following March election, in the event the Council determines not to proceed with review and hearing.
- E. The Zoning Administrator may request persons submitting an amendment for any additional information as may be necessary to put the proposal in a form consistent with the remainder of the Ordinance and capable of being acted upon.

#### 1000.3      Amendment Procedures.

- A. Council Determines Schedule for Review and Hearing: The proposed Zoning amendment shall be placed on the agenda at the City Council meeting. At that time, the Council shall set a tentative schedule that would allow for review as set forth in Paragraphs B and C below, and for a public hearing before the City Council as set forth in Paragraph D.
- B. ZBA Comment and Legal Review of Amendments of Substance:
  - 1. All Amendments shall be submitted to the Zoning Board of Adjustment for a written response within thirty (30) days from the date of receipt. The ZBA will comment on the proposed amendment as to whether it would be inconsistent with other applicable sections of the Ordinance, does not conflict with other sections of the Ordinance, and the meaning and effect is understood. The ZBA shall not comment as to whether or not the amendment is desirable from a planning viewpoint.

2. All amendments shall be submitted to an attorney for review, comment and legal opinion. The legal review will state whether or not such a amendment is within the authority delegated to the City under State law; whether the form is appropriate; and whether, from an administrative point of view, the amendment can be administered and enforced. The written legal review shall be available prior to any consideration by the Council or the Planning Board and Conservation Commission.
- C. Review and Comment by the Planning Board and the Conservation Commission of Any Proposed Amendment: All proposed amendments shall be forwarded to the Planning Board and Conservation Commission. The Planning Board and Conservation Commission shall place the proposed amendment on their agenda for discussion and comment at least thirty (30) days prior to the City Council public hearing. The Planning Board and Conservation Commission shall forward their comments and recommendations to the City Council at least seven (7) days prior to City Council public hearing.
- D. City Council Public Hearing: The City Council shall hold a public hearing upon any proposed zoning amendment. Notice for the public hearing shall satisfy the requirements of RSA 675:7. In the case of amendments being submitted to the voters by referendum, the public hearing before the City Council shall be held no later than January 31st.
- E. Application: The provisions of RSA 676:12 shall apply to all permit applications affected by a proposed or pending amendment to this Ordinance, provided however that the first legal notice of the proposed change shall be deemed to be the notice for the City Council's public hearing.

#### 1000.4 Action Upon Proposed Zoning Amendments.

Any proposed zoning amendment shall be acted upon and adopted or rejected as follows:

- A. Amendment of the Zoning District Boundaries Requiring Referendum Vote: Any amendment which alters the zoning map in such a way as to change the zoning district designation of any area which is within the R-1, R-2, R-3, RL-1, RL-2 or RL-3 districts, and whose size exceeds ten times the minimum lot size for a Class 3 lot for the respective district as currently zoned, or which alters the Article III Table of Uses which are permitted or allowed by special exception or **conditional use** permit, or which alters the Table of Area, Dimensions and Coverage, for one or more of the above-listed districts, shall be placed on the ballot at the annual City election in March. This paragraph shall not apply to textual changes in the zoning ordinance which do not alter the boundaries or districting shown on the zoning map and which do not alter the Article III Tables of Uses or alter the Table of Area, Dimensions and Coverage, applicable to those districts.
- B. Action by the Council: The Council shall act on any proposed Zoning amendment not requiring a referendum vote in which case adoption of the Zoning Amendment shall require a majority vote of five members of the City Council; or alternatively, the Council may decide that such an amendment shall be submitted to the voters at the annual City election, even though such a referendum is not required.
- C. Manner and Method of Voting on Proposed Zoning Amendments by Referendum: Any proposed Zoning amendment to be voted on by referendum

vote shall be acted upon as follows:

1. Form of the Question on the Ballot: The following questions shall appear on the ballot:

"Are you in favor of the adoption of Amendment # \_\_\_\_\_ (if more than one amendment) as proposed by the City Council/By Petition for the Lebanon Zoning Ordinance, as follows: (Here insert topical description of substance of amendment)?"

2. Approval/Disapprovals: The following shall be indicated on the Official Ballot:

"The City Council approves/disapproves of this amendment."

"The Planning Board approves/disapproves of this amendment."

The Conservation Commission approves/disapproves of this amendment."

In addition to each Board indicating its approval or disapproval, there shall be a brief and concise explanation of the position of the Council and each Board.

- D. Information at the Polls for Proposed Changes in Zoning District Boundaries Requiring a Referendum Vote: Prior to the opening of the polls there shall be posted in the entrance areas at Wards I, II and III a large map showing the existing Zoning district boundaries and the proposed changes with color codes for the purpose of informing the voters, as well as a copy of the complete proposed textual changes to the Ordinance, if any.

## SECTION 1001      CONFLICTS.

In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare.

### 1001.1    Other Ordinances, Regulations

Where the provisions of this Ordinance conflict with each other or with other municipal, state or federal Ordinances, statutes, laws or regulations, the stricter provision shall govern.

### 1001.2    Other Permits.

Where a permit issued pursuant to this Ordinance conflicts with another municipal, state or federal permit, the strictest conditions among all permits shall govern.

### 1001.3    Private Requirements.

It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreement between parties, provided, however, that where this Ordinance imposes a greater restriction or higher standard upon the use of a building or premises or upon heights of buildings, or required larger streets or open spaces than are imposed by easements, covenants, or agreements, the provisions of this Ordinance shall govern.



SECTION 1002      SEVERABILITY

Should any section or provision of this Ordinance be held to be invalid or unconstitutional by any court or authority of competent jurisdiction, such holding shall not affect, impair or invalidate any other section or provision of this Ordinance, and to such end all sections and provisions of this Ordinance are declared to be severable.

SECTION 1003      EFFECTIVE DATE

1003.1   Effective Date.

This Ordinance shall take effect upon its enactment by the City Council. It shall supersede and repeal the Zoning Ordinance enacted on December 5, 1990, as amended.

## APPENDIX A

### DEFINITIONS

For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The words shall and will are mandatory, the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word lot includes the word parcel.

**ABUTTER**: Abutter means any person whose property is located in New Hampshire and adjoins or is directly across the street or streams from the land under construction.

**ACCESSORY BUILDING**: A building subordinate and customarily incidental to the main building on the same lot. The term "accessory building", when used in connection with agriculture shall include all buildings customarily used for farm purposes.

**ACCESSORY DWELLING UNIT (ADU)**: A separate complete housekeeping unit that is either contained within or is attached to a single-family dwelling, or within a detached accessory building on the same lot, for which the title is inseparable from the primary dwelling. (See Section 610)

**ACCESSORY SOLAR ENERGY FACILITY**: Any renewable energy facility, equipment or system utilizing solar energy to provide electricity and/or space heating or cooling, hot water heating and swimming pool heating. Such facilities shall be subordinate and incidental to the main building on the same lot and shall be used primarily to reduce on-site consumption of utility energy or other energy sources. (Section 612.2.C.)

**ACCESSORY USE**: A use subordinate and customarily incidental to the principal use of the premises.

**ACCESSORY RENEWABLE ENERGY SYSTEM**: A renewable energy system, other than an accessory wind energy system, that is subordinate and incidental to the main building on the same lot and is used primarily to reduce on-site consumption of utility energy or other energy sources.

**ACCESSORY WIND ENERGY SYSTEM**: A small wind energy system as defined in RSA 674:62.

**ACCESS WAY**: A path, lane, byway, or clearing that has been sufficiently constructed to allow for the passage of motorized or non-motorized vehicles with a minimum axle width of four feet.

**ADVERTISING**: The term "advertising" includes goods, products, samples and models arranged for display and/or sale when such items are located where they can be seen by passers-by.

**AGRICULTURE:** Any area of land, including structures thereon, that is used for agricultural purposes including forestry. This includes the raising of cows, horses, pigs, poultry and other livestock; horticulture and orchards; logging of a forest, woodland or plantation; selling of products grown or raised directly on such land; and the building, altering or maintaining of wood roads, agricultural roads, skidways, landings, fences, drainage systems and farm ponds.

**ALTERNATIVE TREATMENT CENTER:** An “Alternative Treatment Center” as defined in RSA 126-X:1, I, namely, a not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and education materials, to qualifying patients and Alternative Treatment Centers.

**ALTERNATIVE TREATMENT CENTER (CULTIVATION LOCATION ONLY):** A “cultivation location” as defined in RSA 126-X:1, IV, namely, a locked and enclosed site under the control of an Alternative Treatment Center where cannabis is cultivated, secured with one or more locks or other security devices in accordance with RSA 126-X and the Department of Health and Human Service’s administrative rules.

**AMUSEMENTS (INDOOR):** Bowling alleys, billiard parlors, dance halls, arcades, and the like.

**BEST MANAGEMENT PRACTICES:** The structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent increases in and/or reduce storm water volumes and rates of flow, reduce point source and non-point source pollution, and improve storm water quality, and protection of the environment.

(1) With Respect to Forestry: *Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire*, NH Department of Resources and Development, 2004 (or later edition, as may be amended or updated), *Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality*, UNH Cooperative Extension, 2006 (or later edition, as may be amended or updated).

(2) With Respect to Agriculture: *Best Management Wetlands Practices for Agriculture in New Hampshire*, NH Department of Agriculture, July 1993 (or later edition, as may be updated or amended), the *Manual of Best Management Practices for Agriculture in New Hampshire*, NH Department of Agriculture, July 2008 (or later edition, as may be amended or updated).

(3) With Respect to Ground Water: *Best Management Practices for Ground Water Protection in New Hampshire*, NH Code of Administrative Rules, Chapter Env-wq 400 Groundwater Protection, 2007 (or later edition, as may be amended or updated.)

(4) With Respect to Trails: *Best Management Practices for Erosion Control During Trail Maintenance and Construction*, NH Department of Resources and Economic Development, Division of Parks and Recreation, Bureau of Trails 1994, updated in 2004 (or later edition, as may be amended or updated).

(5) With Respect to Regulated Substances: Except as exempted by State regulation, regulated substances found in containers with a capacity of five gallons or more must be stored and/or used in a manner consistent with state administrative rule Env-Wq 401 *Best Management Practices for Groundwater Protection*, NH Department of Environmental Services. (See NH DES Administrative Rules-<http://des.nh.gov/organization/commissioner/legal/rules/documents/env-wq401.pdf>) Note: ENV-Wq 401 includes setbacks from surface water, storm drains and water supply wells and applies to storage and use of regulated substances.

**BIO-GAS ENERGY SYSTEM:** A renewable energy system for collecting, generating or utilizing biologically derived methane gas from anaerobic digestion of organic materials from such

sources as yard waste, food waste, animal waste, sewage sludge, and landfill waste.

**BOX TRAILER:** Any trailer or similar container without motive power designed for carrying property wholly in its own structure and for being drawn by or placed upon some mode of transportation, including so-called "Sea Boxes" and the like.

**BUFFER:** An undeveloped area of natural or planted vegetation or both, designed and intended: (1) to reduce the visual and noise impacts between properties; and, (2) to promote privacy.

**BUILDING:** Any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal, or property of any kind.

**BUILDING COVERAGE:** That percentage of the lot area covered by buildings. In determining the percentage of building coverage of a lot, porches or carports open at the sides but roofed, and all principal and accessory buildings shall be included.

**BUILDING FRONT LINE:** Line parallel to the front lot line transacting that point in the building face which is closest to the front lot line except for minor projections as provided for Article II.

**BUILDING HEIGHT:** Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof or parapet.

**BUILDING LINE:** A line parallel to a lot line transecting that point in the building facade which is closest to the lot line, except for minor projections as provided in Article II.

**BUILDING-MOUNTED SOLAR ENERGY SYSTEM:** A solar energy system that is structurally mounted to the exterior of a building or structure.

**BUSINESS CENTER OR PLAZA:** A grouping of any commercial or industrial uses in one or more buildings, for example, retail, office, restaurant, entertainment, storage or manufacturing uses, sharing common access and parking facilities.

**BUSINESS STORE FRONT:** That portion of the side of a structure occupied by a business use which faces the main street or major point of access. If the business use faces two main streets or major points of access, then said business shall be deemed to have two business store fronts. If the business use faces three or more main streets or major points of access, then said business shall designate only two faces which shall be deemed business store fronts.

**BUS TERMINAL:** A facility for the loading, unloading and transfer of passengers, baggage and shipments on to or off of busses, mini-busses or passenger vans for transport elsewhere. Such a facility may include parking facilities for passengers' vehicles; passenger waiting areas; dispatching facilities; taxi stands; storage space for shipments carried by busses; maintenance and storage facilities for busses, mini-busses, passenger vans and taxis; and accessory uses subordinate and customarily incidental to a bus terminal.

**CARE AND TREATMENT OF ANIMALS:** A veterinary establishment, riding school or kennels.

**CENTRALIZED SEWER SYSTEMS:** A wastewater disposal system that does not connect to the municipal wastewater disposal system and that is designed to serve as the wastewater disposal system for an entire development. Such a system shall be approved by the NHWSPCD and the City of Lebanon. Such system, if approved, are permitted in the RL Districts only.

**CENTRALIZED WATER SYSTEM:** A water system that does not connect to the municipal water system and that is designed to serve as the water system for an entire development.

Such a system shall be approved by the NHWSPCD and the City of Lebanon. Such systems, if approved, are permitted in the RL Districts only.

**CERTIFIED WETLAND SCIENTIST:** A person who, by reason of multi-disciplinary expertise in wetland science acquired by professional education and practical experience, as specified by RSA 310-A: 84(II-a), is qualified to practice wetland science, and who has been duly certified by the State Board of Natural Scientists.

**CLASSIFICATION (CLASSES) OF LOTS:** Whether a lot is classified as "1", "2", or "3" depends on the provisions for water supply and sewage disposal, as follows:

CLASSIFICATION	DESCRIPTION
CLASS 1	Municipal water and municipal sewerage
CLASS 2	Municipal sewerage
CLASS 3	Water and sewerage service that is neither Class 1 or Class 2

**COMMUNITY CENTER:** A building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, owned and operated by a public or non-profit group or agency.

**CONDITIONAL USE:** A use requiring a permit from the Planning Board in accordance with the requirements explicitly set forth herein.

**CONGREGATE LIVING FACILITY:** An senior housing complex which provides separate dwelling units for senior persons but which also may provide certain shared living facilities, such as kitchens; shower and bathing facilities, socialization and recreation areas and/or group dining.

**CONTRACTOR'S YARD:** A property and / or building used by a general contractor, excavation contractor, landscaping contractor, building contractor, or similar uses where vehicles, equipment and/or materials are stored, or where a contractor performs maintenance, shop, and/or assembly work. For the purposes of this definition, this does not include wholesale or retail sales or temporary job construction site.

**CONTRACTOR'S YARD, HOME BASED:** A contractor's yard operated by a resident at the property at which they reside.

**COOP:** A building where female chickens are kept, also referred to as a hen house.

**CRAFTSMAN'S SHOP:** A facility occupied as a workplace by person(s) engaged in handicraft or artisan activities such as jewelry making, artists, weaving, wood carving, pottery, sculpture and the like, including the sales of crafts or other artisan products made on the premises.

**CURTILAGE:** The land within 15 feet immediately surrounding a house or dwelling, including any closely associated buildings and structures, but excluding any associated "open fields beyond".

**DISTRICT ENERGY SYSTEM:** A system for collecting, generating, storing and distributing useful thermal energy derived primarily from renewable energy sources that are used, in the first instance, to help heat or cool buildings or provide hot water on-site and on adjoining properties, in neighborhoods, or commercial and industrial districts and that may also generate electrical

power as part of combined heat and power systems.

**DRIVE-IN RESTAURANT OR REFRESHMENT STAND:** Any place or premises used for sale, dispensing or servicing of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

**DRIVE-THROUGH FACILITY:** Any facility where retail sales, food sales or services are provided to customers who drive up to a window or to an automated device to receive the sales or services, provided that such sales or services are allowed in the zoning district.

**DRIVEWAY:** A private off-street travelway used to provide vehicular access to lots, buildings, structures and/or parking areas. A driveway shall not be used for parking more than two vehicles unless it contains enough area to allow any vehicle to be parked without moving another. See also definitions of "Parking Area" and "Parking Spaces."

**DWELLING:** A building designed for and used primarily by one or more families for living quarters, but not including manufactured homes, trailers of any kind, hotels, motels, group residences, lodging houses, institutional homes, residential clubs, or other commercial accommodations offered for occupancy.

**DWELLING, ONE-FAMILY:** A detached or free-standing dwelling other than a manufactured home, designed for and occupied by one family only.

**DWELLING, TWO-FAMILY:** A detached dwelling designed for or occupied by two families living independently of each other in individual attached dwelling units.

**DWELLING, MULTI-FAMILY:** A dwelling designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING UNIT:** One or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sanitary and sleeping facilities. The term includes sectional homes and modular units but does not include manufactured home, motel, hotel, lodging house or similar structures.

**DWELLING UNIT, ONE-FAMILY ATTACHED:** A dwelling unit designed for and occupied by one family only and separated from another dwelling unit on one or two sides by a vertical party wall.

**EDUCATIONAL FACILITY, COLLEGE/UNIVERSITY:** An educational institution authorized by the state of New Hampshire to award associate, baccalaureate, or higher degrees.

**EDUCATIONAL FACILITY, PRIMARY/SECONDARY:** A public or private school offering instruction at the primary and/or secondary school levels in the branches of learning and study required to be taught in the public schools of the state of New Hampshire. This term shall include preparatory schools.

**EDUCATIONAL FACILITY, VOCATIONAL SCHOOL:** A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum (e.g., beauty school, modeling school).

**ECOLOGICAL INTEGRITY:** The condition of being unimpaired, sound, or complete relative to the structure, composition, and function of an ecosystem as compared to reference ecosystems operating within the bounds of natural or historic disturbance regimes.

**ESSENTIAL SERVICES:** The erection, construction or major alteration by governmental agencies and public utility companies of underground or overhead gas, electrical, sewer, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, and similar equipment and accessories in connection therewith, and including buildings reasonably necessary for the furnishing of such services by public utility companies. The term includes minor relocation or minor additions such as street lights, hydrants, wire, fire alarm boxes or pipes and the replacement of facilities except for buildings. The term does not include off-premise hazard indicators and navigational aids associated with the Lebanon Municipal Airport nor any utility located in a public way.

**FAMILY:** One person or any number of persons related by blood, adoption, marriage, or by civil union or not more than three persons not related by blood, adoption, marriage or by civil union, living together as a single housekeeping unit.

**FINANCIAL INSTITUTION:** An establishment where the principal business is the receipt, disbursement or exchange of funds and currencies, such as: banks, savings and loans, or credit unions. This term shall not include pawn shops, payday lending establishments, brokerage firms, and stand-alone ATMs.

**FLEX-BUILDING:** A building capable of adapting to use by multiple occupants and normally located in an industrial area.

**FRONTAGE:** The width of a lot measured along its common boundary with the street line.

**GOLF COURSE:** A tract of land for playing golf, including tees, greens, fairways, and hazards. The same tract of land may also include a variety of golf uses such as driving ranges, miniature golf, and putting greens.

**GROSS FLOOR AREA:** The total square footage of all floors of a building as measured using exterior building dimensions. For purposes of calculating minimum parking requirements per Section 607.2.A, "gross floor area" shall mean the total square footage of all floors devoted to the use, or accessory to that use, as measured using exterior building dimensions.

**GROSS LIVING AREA** The total area of above-grade residential space of a dwelling unit, excluding unheated areas such as porches and balconies. Gross living area does not include the area within a garage, deck or other unenclosed area

**GROUND COVER:** Any herbaceous plant which normally grows to a mature height of 4 feet or less.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A solar energy system of any size that is either permanently or temporarily mounted to the ground.

**GROUP DAY CARE FACILITY:** A group day care facility is either a child day care facility or an adult day care facility.

A. **CHILD DAY CARE FACILITY:** A day care center, a day nursery, a private nursery school or kindergarten, a child development center, a play group, a head start center, progressive school or any other facility which cares for seven (7) or more children under the age of 16 for a part but not all of a 24 hour day.

Such facilities may be privately operated or sponsored by a church, social agency, cooperative group or a community or by a public agency other than public schools.

- B. **ADULT DAY CARE FACILITY:** A public or privately operated day care center, therapeutic program, or other facility which provides daily restorative care to adults who either live alone or with others and who need, due to aging process and/or disease progression, on-going consistent stimulation, reinforcement, and reality orientation to continue to actively participate in activities of daily living in order to prevent progressive deterioration, reliance on other for care, or nursing home placement.

**GROUP RESIDENCE:** A shared home for seniors, an orphanage, children's home or similar type of group living accommodations. All such facilities shall be licensed by the State of New Hampshire and shall serve a maximum of 12 residents. A group residence may consist of multiple buildings per Section 205.3.

**HAWKER:** The terms "hawker" and "peddler" shall mean and include any person, either principal or agent, who travels from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter to exposing therefore, any goods, wares, or merchandise, either on food or from any animal, cart, or vehicle.

**HEN:** A female chicken

**HIS:** High Intensity Soils Mapping as defined according to the standards of the Society of Soils Scientists of Northern New England. See SSSNENE Publication No. 1 and Appendix B.

**HOME BUSINESS:** Any business carried on in the home which complies with SECTION 600.

**HOSPICE:** A building having architectural style similar to a dwelling, lodging house or small motel/ hotel which provides temporary lodging for those who receive care or treatment at nearby medical facilities and their families.

**HOSPITAL:** A place for the diagnosis, treatment or care of human ailments, licensed for inpatient care by the State of New Hampshire, and its subsidiary structures located on the same lot as the primary facility, including, but not limited to: clinics, medical offices, laboratories and support buildings.

**HOTEL:** A building designed for or used commercially as more or less temporary living quarters for persons who are lodged with or without meals in which are ten or more sleeping rooms usually occupied singularly or by families of transients.

**INSTREAM FLOW:** The amount of water flowing in a natural streambed or channel on an average annual basis.

**INVASIVE SPECIES:** Plant species that have been identified by the NH Department of Agriculture as being so pervasive and noxious as to cause detriment to native flora and fauna, these listed by the Department of Agriculture's Market and Foods Program at the following website, [http://www.nh.gov/agric/divisions/plant\\_industry/documents/invasive-species.pdf](http://www.nh.gov/agric/divisions/plant_industry/documents/invasive-species.pdf) as amended.

**IMPERMEABLE COVERAGE:** All that horizontal area of a lot, parcel or tract which cannot be penetrated by rainwater because of manmade alterations to the natural surface of the land, including building, parking lot, and driveway areas.

**ITINERANT VENDOR:** Any person, either principal or agent, who engages in a temporary or transient business either traveling from place to place, selling goods, wares and merchandise



from stock or by sample for future delivery, and who, for the purpose of carrying on such business, hires or occupies a temporary place of business. A "temporary place of business" means any public or quasi-public place including, but not limited to, a hotel, motel, rooming house, storeroom, building, part of a building, tent, vacant lot, railroad car, or trailer temporarily occupied for the purpose of making retail sales of goods to the public.

**JUNKYARD**: This term shall have the meaning as set out in RSA 236:112 as amended.

**KENNEL**: An establishment in which more than six dogs or cats more than one year old are housed, groomed, bred, boarded, trained, or sold.

**LIGHT INDUSTRY**: The assembly, manufacture, processing, packaging or other industrial operations conducted in such manner that all resulting cinders, dust, fumes, gas, odors, smoke and vapor are effectively confined to the premises or disposed of so as to avoid any air pollution and conducted in such a manner that noise, flashing lights and vibrations will not be a nuisance or otherwise detrimental to abutting properties. Light industry includes the development and production of computer software and hardware and its associated equipment.

**LOCAL GOVERNMENT USE**: Any use of land or structure by the City of Lebanon or any other political subdivision of the State of New Hampshire.

**LODGING HOUSE**: Any dwelling in which living accommodations without individual kitchen facilities are rented to three or more nontransient guests. A boarding or rooming house shall be deemed a lodging house.

**LOT**: A single unit or parcel of land in the same ownership throughout, with ascertainable boundaries and undivided by a street.

**LOT AREA**: The horizontal area of the lot lying within the lot lines, exclusive of any area in a street right-of-way.

**LOT MEASUREMENTS**: Depth of a lot means the average horizontal distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot. Width of a lot means the distance measured across the rear line of the required front yard at right angles to its depth, providing that at least 20 feet exist along the street line.

**LOT OF RECORD**: (1) A lot which is shown as a separate lot, tract or parcel of land on a subdivision plat lawfully recorded in the office of the County Register of Deeds, as long as subdivision approval has not been revoked under RSA 676:4-a, nor the lot merged with any adjoining lot under RSA 674:39-a; or (2) A lot or parcel whose separate metes and bounds description has been lawfully so recorded, which had, at some point in its chain of title, ownership separate from that of any contiguous land described in the same document, and which has not been merged with any contiguous land under RSA 674:39-a, nor used or developed conjointly with any commonly-owned contiguous parcel in a manner implying abandonment of the common lot line.

**MAJOR THOROUGHFARE**: A major thoroughfare shall mean any public way which handles an average daily traffic volume greater than 750 vehicles.

**MANUFACTURED HOME PARK**: Any tract of land on which two or more manufactured homes are parked and occupied for living purposes.

**MANUFACTURED HOME PURD**: A manufactured home subdivision which meets all applicable requirements of Section 501.

**MANUFACTURED HOME SUBDIVISION:** A subdivision of land which allows individual ownership of lots on which can be located only a manufactured home.

**MANUFACTURED HOUSING:** This term shall have the meaning as set out in RSA 674:31, as may be amended.

**MEDICAL CENTER COMPLEX:** A medical center complex having as its primary facility a hospital as defined in this Ordinance. It may also include subsidiary uses located within the boundaries of the medical center complex.

**MEDICAL RESEARCH FACILITY:** A medically related research laboratory, which may as a subsidiary function, engage in the manufacture of products within the following Standard Industrial Classifications: biological products; medicinal chemicals; pharmaceutical preparations; optical instruments and lenses; and surgical and medical instruments.

**MEMBERSHIP CLUB:** Building or use catering to club members and their guests for recreational and social purposes, and not operated primarily for profit.

**MIXED USE:** A development or principle building having 2 or more of the uses allowed within the Zoning District in which it is located.

**MOTEL:** A building or group of buildings containing rooms or living quarters in separate units, designed for or used principally for providing temporary living accommodations for automobile travelers on a rental basis, and generally providing nearby automobile parking space serving such rooms or units.

**NON-CONFORMING BUILDING (STRUCTURE):** Any building or structure, in whole or part, which does not conform to the regulations of the district in which the building or structure is located.

**NON-CONFORMING LOT:** Any lot which does not conform to the area, frontage or width requirements of the district in which it is located.

**NON-CONFORMING USE:** Any use of land and/or a structure that does not conform to the provisions of the district in which it is located.

**NON-RESIDENTIAL TRUCK DELIVERIES:** See "Truck Deliveries, Non-Residential."

**NURSING HOME:** As defined by RSA 151-C:2, a place providing, for two (2) or more persons, basic domiciliary services (room, board and laundry), continuing health supervision under competent professional medical and nursing direction and continuous nursing care as may be individually required. The term "nursing home" includes a "skilled nursing facility," as defined by RSA 151-C:2, but it does not include a "rehabilitation facility" as defined by RSA 151-C:2.

**OFFICE:** A room or group of rooms used for the carrying on, conducting or managing of a business or for the practice of a profession. This term includes, but is not limited to: offices for lawyers, engineers, architects, attorneys, accountants, insurance, real estate, or investment agencies, or any similar type of profession, as well as medical offices including offices of a physician, dentist, psychologist, optometrist or other licensed health care provider, which does not include any hospital or ambulatory surgical care facilities.

**ORDINARY HIGH WATER MARK:** The line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of

the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

**OUTDOOR STORAGE:** Storage not in a structure, provided that any storage material other than new equipment, new building material or other new products displayed for sale is fenced or screened.

**PARAPET:** That portion of a building wall that rises above the roof level.

**PARKING AREA:** Any part of a lot that is used for parking, other than driveways and areas necessary for vehicles to maneuver into or out of parking spaces. If a driveway is wide enough to provide both parking spaces and a circulation/ access land adjacent to the parking spaces, the part of the driveway used for parking spaces shall be considered a parking area.

**PARKING FACILITY:** A paved parking area or parking structure available to the public, with or without payment of a fee.

**PARKING LOT:** Any parking area (as defined above) other than a parking area that is part of a driveway.

**PARKING SPACES, OFF-STREET:** For the purpose of these regulations, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked without moving another.

**PARKING STRUCTURE:** A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. A parking structure includes parking garages, deck parking, and underground or under-building areas for parking.

**PEDDLER:** See "Hawker."

**PERSONAL SERVICE:** Establishments providing frequent or recurrent services related to personal needs, and including accessory retail sales of products related to the services offered. Examples include beauty and barber shops, nail salons, tanning salons, massage services, clothing rental, tailors, garment and shoe repair shops, photographic studios, and similar businesses. The term shall not include laundromats and dry cleaning establishments.

**PLANNED BUSINESS PARK:** A development approved by the Planning Board for a tract of land at least 50 acres in size which provides for a designated mix of office, commercial and light industrial uses. (See Section 508.)

**POLLUTION:** The contamination or alteration of the physical, biological, or chemical properties of wetland or water resources from the discharge or deposition of any waste or other materials. This includes, but is not limited to, sewage and sediment.

**PRINCIPAL BUILDING:** (Or Structure) - The building (or structure) which houses the principal use of a lot.

**PRINCIPAL USE:** The primary purpose for which a lot or structure is used.

**PRODUCE STAND:** Sale of flowers, garden supplies, or agricultural produce designed to serve highway customers.

**PUBLIC RECREATION FACILITY:** A recreational facility owned by federal, state or local government.

**PUBLIC RIVER:** All year round flowing rivers or streams, as shown on the current version of the US Geological Survey 7.5 topographic maps.

**PUBLIC SAFETY FACILITY:** A building, structure, or use of land built or installed by a public agency for the protection of the public from injury and dangers.

**RECREATIONAL FACILITY, INDOOR:** An indoor recreational facility including, but not limited to, tennis courts, swimming pools, ice or roller skating, track and field facilities, squash or handball courts, other than those accessory to a dwelling.

**RECREATIONAL FACILITY, OUTDOOR:** Outdoor recreational activities, including such facilities as outdoor tennis courts, swimming pool, golf courses, play fields, and similar uses. No buildings shall be allowed except for the necessary related uses such as restrooms and maintenance facilities, other than those accessory to a dwelling.

**RECREATIONAL VEHICLE (RV):** Any of the following vehicles: (1) Motorhome or van, which is a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle. (2) Pickup camper, which is a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation. (3) Recreational trailer, which is a vehicular, portable structure built on a single chassis, 400 square feet or less when measured at the largest exterior horizontal projections, calculated by taking the measurements of the exterior of the recreational trailer including all siding, corner trim, molding, storage space and area enclosed but windows by not the roof overhang. It shall be designed primarily not for use as a permanent dwelling, but as a temporary dwelling for recreational, camping, travel or seasonal use. (4) Tent trailer, which is a canvas or synthetic fiber folding structure, mounted on wheels and designed for travel, recreation, and vacation purposes.

**REMOVAL OF NATURAL MATERIAL:** The removal of natural material is the removal of loam, sand, gravel, stone or other fill material for sale in commercial quantities, or for use in another location.

**RENEWABLE ENERGY SYSTEM:** A system for collecting, generating, or storing useful thermal, electrical, chemical, or mechanical energy from renewable energy as that term is defined in RSA 125-O:2, VIII, or a renewable source as that term is defined in RSA 362-F:2, XV.

**RESTAURANT:** The term includes diners, cafes, and cafeterias and does not include drive-in restaurants. It shall be an eating establishment which is primarily designed for its patrons to eat at tables, booths or a counter. Take-out refreshments are only incidental to the main purpose of the establishment.

**RETAIL STORE:** The term includes shops and stores for the sale of retail goods and department store; and does not include any drive-in service, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and manufactured home sales and service and personal services.

**RIPARIAN:** Belonging or relating to the bank of a river or stream.

**SAPLING:** Any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point 4 ½ feet above the ground.

**SAWMILL**: Sawmill operations or forest produce manufacture in structures.

**SECURE ENCLOSURE**: A fence or other form of secure enclosure that will prevent hens from walking, jumping or flying out.

**SENIOR HOUSING COMPLEX**: A housing complex exclusively occupied by persons who are at least 55 years old. Such a complex may include one or more dwellings of single, two or multi-family type. It may also include congregate living facilities by special exception (see SECTION 603)

**SEPTIC SYSTEM**: Any structure or series of structures that are designed to store, treat, and purify waters that contain human waste.

**SERVICE AREA**: The area adjacent to a building entrance, usually in the rear, through which supplies are received and waste materials are moved.

**SERVICE STATION**: A business primarily concerned with the retail sale of fuel, oil, grease, related automotive products and/or minor mechanical repairs and services to automobiles.

**SETBACK**: See "Yard."

**SETBACK LINE**: A line paralleling the boundary line of a lot located at a distance from the boundary line that is equal to the applicable minimum yard requirement.

**SHOPPING MALL**: A group of stores and shops including retail office and/or restaurant/entertainment uses located along an open or enclosed pedestrian walkway sharing common access and parking facilities.

**SIGN**: A name, identification, image, description, display, message or illustration which is affixed to, painted or represented directly or indirectly upon a building, structure or parcel of land, and which directs attention to the sign face or an object, product, place, activity, facility, service, event, attraction, person, institution, organization, or business. Customary displays of merchandise or objects and material placed behind a store window are not signs or parts of signs.

**SIGN AFFIXED**: Those signs fixed or attached to the surface of a building. The plane created by an affixed sign is parallel to the plane created by the surface of the building.

**SIGN AREA**: The sign area means the entire area within one, but not more than three separate geometric forms enclosing the extreme limits of writing, representation, emblem or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. The geometric forms shall be limited to a circle, triangle or parallelogram, or any combination thereof. Geometric forms located more than twelve (12) inches apart shall be considered separate signs. Where a sign has two or more faces, the area of all faces shall be included in determining area of the sign, except where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken either as the area of one face - if the two faces are of equal area, or the area of the larger face - if the two faces are of unequal area.

**SIGN, DIRECTORY**: A sign listing the names of the occupants or business of a building, shopping to a building.

**SIGN, FREE STANDING:** A sign placed on the grounds of the property and not attached to a building.

**SIGN, PORTABLE:** A portable sign shall mean any sign that is designed to be transported, including but not limited to the following:

1. Signs with wheels removed.
2. Signs with chassis or support constructed without wheels.
3. Signs designed to be transported by trailer or wheels.
4. Signs converted to A - or T- frame signs.
5. Signs attached temporarily to the ground, a structure or other sign.
6. Signs mounted on a vehicle for advertising purposes, parked, and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in the normal day-to-day operations of that business.
7. Menu and sandwich boards.

**SIGN, PROJECTING:** A sign attached perpendicularly to a building wall.

**SIGN, SANDWICH BOARD:** A free standing, temporary A-Frame ground sign having a message on both sides.

**SOCIAL SERVICE CENTER:** An establishment providing assistance and aid to those persons who may need or benefit from counseling for psychological problems, employment, learning disabilities, and/or physical disabilities. Said establishments may include temporary lodging facilities.

**SOLAR ENERGY SYSTEM:** A device or system designed to collect, store, and distribute solar energy for space heating or cooling, electricity generation, or water heating.

**SPECIAL EXCEPTION:** A use of a building or lot which may be permitted under this Ordinance only upon application to the Board of Adjustment and subject to the approval of the Board in accordance with provisions explicitly set forth herein.

**STREET LINE:** Right-of-way line of a street as dedicated by subdivision plat or a deed of record. Where the width of the street is not established, the street line shall be considered to be 25 feet from the centerline of the street pavement.

**STREET OR PUBLIC STREET:** A public right-of-way which the town or state has the duty to maintain regularly or a right-of-way shown on a subdivision plat approved by the Planning Board and recorded with the County Registry of Deeds which provides the principal means of access to abutting property.

**STRUCTURE:** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. The term includes, but is not limited to, buildings, swimming pools, tennis courts, manufactured homes, billboards, poster panels, wind and solar energy facilities, satellite dishes and antenna. The term does not include minor installations such as fences less than three and a half feet high, agricultural and safety fences,

mail boxes, flagpoles and children's play equipment, nor does it include subsurface waste disposal systems.

**TELECOMMUNICATION FACILITIES**: A personal wireless service facility, as defined in the federal Telecommunications Act of 1996, as amended. Such facilities generally include, but are not limited to, a tower, mount, antenna, equipment shelter, fencing and other related equipment. A telecommunication facility is not a commercial broadcast radio or television station antenna or tower.

**TOURIST HOME (OR BED & BREAKFAST FACILITY)**: Any dwelling (other than a hotel or motel) in which living accommodations without kitchen facilities are rented to ten or fewer transient guests for more than 12 days per year.

**TRADITIONAL SUBDIVISION**: Any subdivision of land which meets all applicable dimensional requirements of the zoning district in which it is located and is not approved as either a PUD per Section 501, a manufactured home subdivision per Section 504, or a planned business park per Section 508.

**TREE**: Any woody plant which normally grows to a mature height greater than 20 feet and which has a diameter of 6 inches or more at a point 4 1/2 feet above the ground.

**TRUCK DELIVERIES, NON-RESIDENTIAL**: Deliveries by vehicles representing businesses such as Federal Express, United Parcel Service, courier services and the like.

**TRUCK TERMINAL**: A truck terminal shall be allowed to have facilities for transfer of merchandise, repair, maintenance, and servicing of trucks and trailers and indoor and outdoor storage of equipment including tractors, trucks, and trailers. Any outdoor storage shall be fenced or screened.

**VARIANCE**: Such departure from the terms of this Ordinance as the Board of Adjustment, upon appeal in specific cases, is empowered to authorize under the terms of SECTION 801.2 and applicable statutes of the State of New Hampshire.

**VEHICULAR SALES**: The display and sales of new or used motor vehicles, motorcycles, recreational vehicles, manufactured homes, boats, heavy equipment and farm machinery. No retail sale of gasoline or oil is permitted. Vehicular sales shall include facilities for the short term leasing of automobiles and trucks to the end consumer.

**VEHICULAR REPAIR**: The repair or maintenance of motor vehicles, motorcycles, recreational vehicles, manufactured homes, boats, heavy equipment and farm machinery. No retail sale of gasoline or oil is permitted.

**WAREHOUSE**: Includes warehouse (and self-storage warehouse) wholesale establishment, bulk storage and bulk sales outlet.

**WATER RESOURCE PROFESSIONAL**: A person who has been formally trained and who has experience in the management, treatment, and/or planning relative to water resources such as streams, rivers, ponds, lakes, and wetlands.

**WAY**: Any public highway, street, avenue, road, alley, park or parkway, or any private way laid out under authority of statute, and ways provided and maintained by public institutions to which state funds are appropriated for public use, to any public or private parking lot which is maintained primarily for the benefit of paying customers.

**WETLAND BUFFER:** An area adjacent to wetlands that in its undisturbed and natural condition, is integral to the performance and protection of wetland functions and values.

**WETLANDS:** All areas within the Wetlands Conservation District as defined by SECTION 401.2, 401.3.

**WIND ENERGY SYSTEM:** A wind energy conversion system consisting of a wind turbine, a tower or pole, and associated mechanical and electrical conversion components.

**YARD (OR SETBACK):** That portion of a lot not occupied by a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

**YARD, FRONT (OR SETBACK):** Yard between the front lot line and the front of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the front line of the building. Notwithstanding provisions for front yards elsewhere in these regulations, on streets with less than 50 foot right-of-way, the front yard requirement shall be measured from the center line of the existing right-of-way and 25 feet shall be added to the front yard requirement.

**YARD, REAR (OR SETBACK):** Yard between the rear lot line and the rear line of a building extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the main building.

**YARD SALE:** The sale of excess items by a family from its residence to customers coming to the residence to view and purchase the items. It shall include garage, lawn, attic, tag and porch sale, and similar expression intending to convey such type of sales.

**YARD, SIDE (OR SETBACK):** Yard between the principal building or accessory building and a side lot line, and extending through from the front yard to the rear yard.



## APPENDIX B

### KEY TO HIS SOIL TYPES

Source: Society of Soil Scientists off Northern New England, High Intensity Soils Maps for New Hampshire - Standards and Origins, January, 1987, p. 8, p. 9.

This key is used in determining soil types that are utilized in high intensity soil surveys for administration of lot size by soil type and wetlands regulations. The soil types are defined as soils having the same soil characteristics of drainage class, parent material, restrictive features, and slope; and are designated by a five-part symbol, the parts being A, B, C, D, E.

#### **SYMBOL A - DRAINAGE CLASS**

- 1 - excessively drained
- 2 - well drained
- 3 - moderately well drained
- 4 - somewhat poorly drained
- 5 - poorly drained
- 6 - very poorly drained
- 7 - not determinable (to be used only with Symbol B-6)

#### **SYMBOL B - PARENT MATERIAL**

- 1 - Glaciofluvial Deposits (outwash/terraces)
- 2 - Glacial Till Material  
Marine or Glaciolacustrine Deposits
- 3 - Very fine sand and silt deposits
- 4 - Loamy/sandy over silt/clay deposits
- 5 - Silt and clay deposits
- 6 - Excavated, regraded or filled
- 7 - Alluvial Deposits
- 8 - Organic Materials - Fresh Water
- 9 - Organic Materials - Tidal Water

#### **SYMBOL C - RESTRICTIVE FEATURE** (If more than one applies, list the most restrictive)

- 1 - None.
- 2 - bouldery, with more than 15% of the surface covered with boulders (larger than 12 inches in diameter).
- 3 - mineral restrictive layer(s) are present in the soil profile less than 40 inches below the soil surface - such as hard pan, platy structure, clayey texture. For

examples of soil characteristics that qualify for restrictive layer, see Soil Manual for Site Evaluations in New Hampshire, page 2-22, figure 2-8.

- 4 - bedrock present in the soil profile 0 to 40 inches below the soil surface (bedrock is either a lithic or paralithic contact - see Soil Taxonomy p. 48-49).
- 5 - subject to flooding.
- 6 - does not meet fill standards (see addendum - Standards For Fill Material) (only to be used with Symbol B-6).
- X - Areas where depth to bedrock is so variable that a single soil type cannot be applied will be mapped as a complex of soil types and will have a Symbol C of X.

**SYMBOL D - SLOPE CLASS**

- B - 0 TO 8%
- C - 8 TO 15%
- D - 15 TO 25%
- E - 25% +

**SYMBOL E - HIGH INTENSITY SOIL MAP IDENTIFIER - H.**

The H is placed at the end of the soil type to identify the area mapped as meeting the standards for high intensity soil maps. If, as a preliminary planning tool, a soil map is made that does not meet the standards, but the soil scientist still prefers to use the connotative legend to identify the soils, a P (signifying a preliminary map) will be used in place of the H, i.e. 111CP. Maps made with soil types ending with P do not meet the standards for high intensity soil maps and are not intended to be used for wetland Ordinance, lot size by soil type regulations, etc.

**SOME EXAMPLES**

1. An excessively drained sand and gravel soil with no restrictive features on a 9% slope would be identified as: 111CH
2. A moderately well drained glacial till soil with a hard pan, on a 4% slope would be identified as: 323BH
3. A somewhat poorly drained clayey soil with firm consistence and high clay content in the substratum, on a 1% slope, would be identified as: 453BH
4. A very poorly drained organic soil located on the tidal marsh would be identified as: 691BH
5. An area of well drained glacial till where bedrock is present, and the shallow soils are so intermixed with deep soils that they cannot be separated, on a 16% slope, would be identified as: 22XDH

SOIL TYPE	LOT SIZE	SOIL TYPE	LOT SIZE	SOIL TYPE	LOT SIZE
111BH	40000	212BH	75000	23XCH	100000
111CH	45000	212CH	80000	23XDH	140000
111DH	60000	212DH	95000	23XEH	NA
111EH	NA	212EH	NA	241BH	50000
112BH	75000	213BH	50000	241CH	75000
112CH	80000	213CH	75000	214DH	100000
112DH	95000	213DH3	100000	241EH	NA
112EH	NA	213EH	NA	243BH	50000
114*H	NA	214*H	NA	243CG	75000
11XBH	80000	21XBH	80000	243DH	100000
111XCH	100000	21XCH	100000	243EH	NA
11XDH	140000	21XDH	140000	244*H	NA
11XEH	NA	21XEH	NA	24XBH	90000
121BH	40000	221BH	40000	24XCH	130000
121CH	45000	221CH	45000	24XDH	180000
121DH	60000	221DH	60000	24XEH	NA
121EH	NA	221EH	NA	251BH	90000
122BH	75000	222BH	75000	251CH	135000
122CH	80000	222CH	80000	251DH	160000
122DH	95000	222DH	95000	251EH	NA
122EH	NA	222EH	NA	253BH	90000
124*H	NA	223BH	50000	253CH	135000
12XBH	80000	223CH	75000	253DH	160000
12XCH	100000	223DH	100000	253EH	NA
12XDH	140000	223EH	NA	254*H	NA
12XEH	NA	224*H	NA	25XBH	130000
161BH	50000	22XBH	80000	25XCH	190000
161CH	55000	22XCH	100000	25XDH	240000
161DH	70000	22XDH	140000	25XEH	NA
161EH	NA	22XEH	NA	261BH	50000

SOIL TYPE	LOT SIZE	SOIL TYPE	LOT SIZE	SOIL TYPE	LOT SIZE
164*H	NA	231BH	40000	261CH	55000
166*H	NA	231CH	45000	261DH	70000
16XBH	90000	231DH	60000	261EH	NA
16XCH	110000	231EH	NA	263BH	60000
16XDH	150000	233BH	50000	263CH	85000
16XEH	NA	233CH	75000	263DH	110000
211BH	40000	233DH	100000	263EH	NA
211CH	45000	233EH	NA	264*H	NA
211DH	60000	234*H	NA	266*H	NA
211EH	NA	23XBH	80000	26XBH	90000
26XCH	110000	33XBH	115000	412BH	145000
26XDH	150000	33XCH	155000	412CH	190000
26XEH	NA	33XDH	205000	413BH	90000
275*H	NA	33XEH	NA	413CH	135000
311BH	60000	341BH	75000	414*H	NA
311CH	90000	341CH	100000	41XBH	150000
311DH	120000	341DH	125000	41XCH	180000
311EH	NA	341EH	NA	421BH	75000
312BH	95000	343BH	75000	421CH	115000
312CH	125000	343CH	100000	422BH	130000
312DH	155000	343DH	125000	422CH	165000
312EH	NA	343EH	NA	423BH	90000
313BH	60000	344*H	NA	423CH	135000
313CH	90000	34XBH	115000	424*H	NA
313DH	120000	34XCH	155000	42XBH	150000
313EH	NA	34XDH	205000	42XCH	180000
314*H	NA	34XEH	NA	431BH	115000
31XBH	100000	351BH	90000	431CH	150000
31XCH	120000	351CH	135000	433BH	115000
31XDH	160000	351DH	160000	433CH	150000
31XEH	NA	351EH	NA	434*H	NA

SOIL TYPE	LOT SIZE	SOIL TYPE	LOT SIZE	SOIL TYPE	LOT SIZE
321BH	50000	353BH	90000	43XBH	175000
321CH	75000	353CH	135000	43XCH	235000
321DH	100000	353DH	160000	441BH	115000
321EH	NA	353EH	NA	441CH	150000
322BH	85000	354*H	NA	433BH	115000
322CH	100000	35XBH	130000	443CH	150000
322DH	135000	35XCH	190000	444*H	NA
322EH	NA	35XDH	240000	22XBH	175000
323BH	60000	35XEH	NA	44XCH	235000
323CH	90000	361BH	70000	451BH	135000
323DH	120000	361CH	100000	451CH	205000
323EH	NA	361DH	130000	453BH	135000
324*H	NA	361EH	NA	453CH	205000
32XBH	100000	363BH	70000	454*H	NA
32XCH	120000	363CH	100000	45XBH	195000
32XDH	160000	363DH	130000	45XCH	285000
32XEH	NA	363EH	NA	461BH	105000
331BH	75000	364*H	NA	461CH	150000
331CH	100000	366*H	NA	463BH	105000
331DH	125000	36XBH	110000	463CH	150000
331EH	NA	36XCH	130000	464*H	NA
333BH	75000	36XDH	170000	466*H	NA
333CH	100000	36XEH	NA	46XBH	165000
333DH	125000	375*H	NA	46XCH	195000
333EH	NA	411BH	90000		
334*H	NA	411CH	135000		

The soil types listed below have one or more limiting characteristics that make the soil type "NA" or require on-site investigation, no matter what other characteristics of the soil may be present.

SOIL TYPE	MINIMUM LOT SIZE
5***H	NA, poorly drained soil
6***H	NA, very poorly drained soil

*75*H	NA, floodplain soil
*66*H	NA, fill does not meet the Standards for Fill Material (see Key to Soil Types)
76**H	On-Site evaluation needed

The Soil Type symbols are explained in the Key to Soil Types.

"NA" means not allowed

"\*\*" means any slope or any number

- NOTE:**
- 1) The lot size requirements in the preceding table do not apply to lots having municipal sewerage.
  - 2) The lot size requirements in the preceding tables may be reduced by 1/3 for lots having municipal water and no municipal sewerage.

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**ADOPTED: January 16, 2013** (Sections 102 & 104 Purpose Statement)  
 (Sections 305.2 & 305.5 General Commercial-added multi-family, mixed use, and Section 305.5 for PB density).  
 (Section 507.1 Density Bonuses for energy efficient design and renewable energy - for future use.) Section 608, Signs- definition of sign and sign area; 608.5 temp signs; 608.8.F. sign illumination & 618.10 non-conforming sign illumination.)

**Revised: March 13, 2013** (amendments submitted to the voters by referendum: Sections 201, 201.8 & 9, 203, 203.3, 204, 215, 401, 410, 601, 610, 611, 612, Article III and Appendix A)

**Revised: May 15, 2013** (Impact Fee, Article II, Section 213 only)

**Revised: February 19, 2014** (Accessory Dwelling Units, Section 610 D. only)

**Revised: March 11, 2014** (amendments submitted to the voters by referendum: Sections 501, 502, 610)

**Revised: August 6, 2014** (amendment Professional Business District Section 311.B)

**Revised: March 10, 2015** (amendments submitted to the voters by referendum: Sections 203.4, 203.5, 1000.2, 1000.4, Appendix A)

**Revised: May 20, 2015** (amendments "Alternative Treatment Centers": Article III, Section 305.2, General Commercial District, Table of Uses; Article VI, Section 607.2, Appendix A)

**Revised: May 4, 2016** (amendments to Article II, Section 201 "Yard Requirements"; added Article III, Section 302.1 "Mixed Use Buildings; amendments to IND-L, IND-

RA, GC, CB, NC, R-O, R-O-1, PB, and MC districts (Article III); amendments to Article V, Section 508.4 ("Planned Business Parks Sector, Allowed Uses"); amendments to Article VI, Section 600 ("Home Businesses") and Section 607 ("Parking"); added Article VI, Section 611A ("Beekeeping"); amendments to Article VII, Section 703 ("Non-Conforming Buildings and Structures"); amendments to Article VIII, Section 802.5 ("Board Procedures, Rehearings and Appeals"); amendments to Appendix A ("Definitions")

<b>Revised:</b>	<b>January 18, 2017</b>	Amendments to Sections 201 "Yard Requirements"; 201.9 "Accessory Renewable Energy Systems"; 203 "Height Requirements"; 209 "Manufactured Homes"; Article III Tables for the IND-L, IND-RA, IND-H, GC, CB, NC, R-1, R-2, R-3, R-O, R-O-1, PB, RL-1, RL-2, RL-3, and MC Districts; 401 "Wetlands Conservation District"; 407 "Airport Protection District"; 409 "Landfill Reclamation District"; 410 "Riverbank Protection District"; 500 "General (re: Article V provisions); 501 "Planned Unit Development (PUD); 504 "Manufactured Home Subdivisions"; 507 "Bonuses for Certain Planned Development"; 607 "Parking"; 608 "Signs"; 610 "Accessory Dwelling Unit (ADU)"; 611 "The Keeping of Hens"; 612 "Renewable Energy Systems"; and Appendix A "Definitions". Removed Section 502 "Cluster Subdivision".
<b>Revised:</b>	<b>March 14, 2017</b>	Amendments to Article III Tables for the R-1, R-2, R-3, RL-1, RL-2, and RL-3 Districts; Section 612 "Renewable Energy Systems"; and Appendix A "Definitions". Added Section 600A "Home Based Contractor's Yard".
<b>Revised:</b>	<b>April 19, 2017</b>	Amendments to Section 608 "Signs"; and Appendix A "Definitions" (definition of "sign").
<b>Revised:</b>	<b>January 17, 2018</b>	Amendments to Section 205 "One Principal Structure Per Residential Lot"; Section 213.5 "Impact Fees – Standards and Basis of Assessment"; Section 302 "Uses" ("Accessory Uses" and "Enhanced Performance Standards"); Article III Tables of Use (adding uses permitted by conditional use permit); Sections 303.4 and 5 (IND-L outdoor storage and retail showroom requirements); Section 307 (eliminating Neighborhood Commercial district); Section 311.2 (adjusting R-O District table of uses); Section 601.2 (parking requirements for conversions); Section 610 "Accessory Dwelling Units"; and Appendix A "Definitions".
<b>Revised:</b>	<b>March 13, 2018</b>	Amendments to Article III Tables for the R-1, R-2, R-3, RL-1, RL-2, and RL-3 Districts.

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**HISTORY OF AMENDMENTS FROM DEC. 5, 1990 ADOPTION**  
**TO**  
**JANUARY 16, 2013 ADOPTION**

<b>ADOPTED:</b>	<b>December 5, 1990</b>	<b>By Lebanon City Council</b>
REVISED:	August 27, 1991	(SECTION 703.1 "Expansion")
REVISED:	October 16, 1991	(SECTION 1000 "Amendments")
REVISED:	July 15, 1992	(Added CHURCH to GC Zone)
REVISED:	September 2, 1992	(SECTION 211 "Box Trailers")
REVISED:	January 6, 1993	(SECTIONS 608.8. I.8 & 608.4E "Open flags")
REVISED:	June 16, 1993	(SECTIONS 308, 309, 310 & 311 added "Cemetery" as a special exception) & (SECTION 608.5 & 608.8G "Sandwich Board Sign" added to temporary signs -Appendix A)
REVISED:	August 4, 1993	(Definition of "Planned Business Park" - Appendix A)(Note: Revised again on 4/19/95)
REVISED:	May 4, 1994	(SECTION 311.A - RO-1 District Table of Uses)
REVISED:	June 15, 1994	(SECTION 608.4F - "Projecting Signs in CBD" - new section & Section 608.8.D)
REVISED:	July 20, 1994	(Definition of "Medical Aviation Use" - Appendix A)
REVISED:	January 18, 1995	(New SECTION 311.B - PB District Table of Uses, 607.3 Parking and definition "Mixed Use.")
REVISED:	April 19, 1995	(New SECTION 508 - "Planned Business Park",definition of same and Section 303.2 - added PBP as permitted use.) -AND- (SECTION 311.B.6 "Reconstruction" & definition of "Professional Office.")
REVISED:	July 17, 1996	(Appendix "A" added definition "Bus Terminal" & SECTIONS 303.2 Table of Uses - added "bus terminal" as a permitted use - SECTION 305.2 Table of Uses -added "bus terminal" as a special exception.)
REVISED:	August 30, 1996	(Historic District - NEW SECTION 408.)
REVISED:	January 21, 1998	(Section 303A - Industrial Rail Access Zoning District)



REVISED:	June 17, 1998	(Section 508.3.C.2 to include "Private Post Secondary Education." Sections 303.2, 305.2, and 306.2 added "Private Post Secondary Education" as a special exception. Appendix "A" added definition "Private Post Secondary Education.")
REVISED:	February 21, 2001	(Section 213 - Impact Fees)
REVISED:	May 19, 2001	(Section 609 - Sexually Oriented Businesses)
REVISED:	April 17, 2002	(Section 409 - Landfill Reclamation District)
REVISED:	May 7, 2003	(Section 203 Exceptions to Height Requirements) (New section 203.2 Radio & TV Antenna/Tower)
REVISED:	March 4, 2009	(Section 401, Section 607, Section 801.2, Article IX, Article X (Added and deleted language) and Appendix A - New definition for lot of record)
REVISED:	May 20, 2009	(Article V, Section 501.4.D - Added new paragraph to allow a residential component in commercial/industrial PUDs.
REVISED:	July 15, 2009	(Section 213 Impact Fees: deleted existing and replaced. Eliminated definition of "impact fee" from appendix A.)
REVISED:	October 21, 2009	(Updated various sections not needing referendum vote. See City Council updates of ZO, dated August 19, 2009 as revised by Council motion on Oct. 21, 2009.)
REVISED:	July 21, 2010	(Section 508, Planned Business Parks & Section 801.2 Variances were amended.)

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